

RIISING HIGHWAY FATALITIES

HEARING
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
ONE HUNDRED TENTH CONGRESS
FIRST SESSION

SPECIAL HEARING
APRIL 19, 2007—WASHINGTON, DC

Printed for the use of the Committee on Appropriations



Available via the World Wide Web: <http://www.gpoaccess.gov/congress/index.html>

U.S. GOVERNMENT PRINTING OFFICE

38-024 PDF

WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
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RISING HIGHWAY FATALITIES

THURSDAY, APRIL 19, 2007

U.S. SENATE,
SUBCOMMITTEE ON TRANSPORTATION AND HOUSING
AND URBAN DEVELOPMENT, AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:03 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.
Present: Senators Murray and Bond.

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. We will come to order.

Today, we are going to take testimony on the tragic trend of rising fatalities on our Nation's highways. Right now, an average of 119 people die every day in motor vehicle crashes. That means that every 12 minutes, a father, a mother, a brother, a sister, or a child is stolen from the American family.

Motor vehicle crashes are the leading cause of death for Americans between the ages of 3 and 33. They remain one of the top five leading causes of death for middle-aged Americans.

During our first subcommittee hearing held back in February, I reminded Transportation Secretary Mary Peters that when she served as Federal Highway Administrator in 2003, she noted that there were 41,000 highway fatalities that year. She concluded that our country was facing a national safety crisis. Unfortunately, since 2003 the number of annual fatalities has now risen to 43,400. The crisis has not abated. It has worsened.

And even more worrisome than the raw number of people being killed on our highways is the fact that for the first time in several years the fatality rate—the statistical likelihood that a citizen will be killed on our highways—has actually increased. After many years of slow but steady progress, the numbers are now going in the wrong direction.

If we are going to get back on track to reducing highway fatalities, it is clear that the old solutions are not going to be enough. Only half of the States have enacted primary seatbelt laws. And as we learned in the recent incident involving our former colleague, Governor Corzine, it is not enough just to enact primary seatbelt laws. These laws, like the posted speed limits, need to be respected and enforced.

But there are many other factors that add to our rising fatality rate. Not enough States are taking repeat drunk drivers off the

road permanently. And not enough States are requiring safe practices by our motorcyclists.

We need some new and innovative solutions. And the Federal Government needs to be a partner in these solutions.

I am very disappointed to see that rather than exhibiting leadership and attacking the problem, the Bush administration appears to be retreating. A few years ago, the Bush administration itself established the admirable goal of reducing the highway fatality rate to 1 per 100 million vehicle miles traveled by 2008. But rather than put forward bold new initiatives to reach that goal, the Bush administration has decided to weaken the goal and delay it until 2011.

Rather than just admitting defeat, the administration should be redoubling its efforts and putting forward proposals that will truly alter the behavior of drivers, pedestrians, and even Federal enforcers and regulators.

Testifying before us this morning are the administration's two principal point people on highway safety. Nicole Nason is the Administrator of the National Highway Traffic Safety Administration (NHTSA). John Hill serves as our chief truck safety official, the Administrator of the Federal Motor Vehicle Carrier Safety Administration (FMCSA).

I am also pleased that we are joined by Mark Rosenker. He is the Chairman of the National Transportation Safety Board (NTSB). This is his first appearance before this subcommittee.

The NTSB is probably best known for its work investigating aviation crashes, but its work in recommending safety improvements on our highways actually impact a great many more travelers. The NTSB has no regulatory or enforcement functions, but they do carry extraordinarily important responsibilities in investigating accidents and making recommendations for safety improvements to Federal and State agencies and transportation operators to ensure a safer transportation network.

When the NTSB makes a recommendation to a Federal agency, we expect that Federal agency to take notice. And when the NTSB puts that recommendation on its list of most wanted safety recommendations, we expect that Federal agency to act promptly.

Finally, when the NTSB determines that an agency's response to one of their most wanted safety recommendations is unacceptable, this subcommittee wants answers. We want to know why the agency is turning a blind eye to the NTSB.

Two of the NTSB's most wanted recommendations have been directed at Mr. Hill's truck safety agency. And the NTSB has determined that Mr. Hill's response to both has been unacceptable. This morning, I want to find out why.

Recently, here in the Washington, DC area, we learned the tragic results of weak and ineffective truck safety enforcement. The Washington Post recently revealed the case of a trucker who had racked up traffic citations in seven States. In one of those States, the license of the truck driver had been suspended seven times in 11 years. In fact, he was driving on a suspended license at the time he crashed into a passenger vehicle on the Capitol Beltway, killing a 33-year-old father of two.

The truck driver was cited for reckless driving and he may face more serious charges as a result of that accident. That truck driver was in the employ of a trucking company called BK Trucking. Prior to the accident, BK Trucking firm was already on the watch list for the Federal Motor Carrier Safety Administration because of an unusually high number of accidents and deficient inspections.

A little more than 3 weeks before that Beltway accident, the FMCSA did a full scale compliance review on BK Trucking. They found a few problems, mostly with log books but otherwise found no violations that the agency described as critical or acute. That was before the fatal accident.

Three days after this awful tragedy, the FMCSA paid another call on BK Trucking and discovered the following violations, improper lease agreements; lack of compliance with drug and alcohol testing procedures; using drivers with suspended commercial drivers licenses; failure to maintain records of State inspections; maintaining false log books; failure to turn in log books; and failure to prepare driver inspection reports.

So just 1 month after the FMCSA conducted a compliance review and found only minimal problems, the agency did another compliance review and found multiple violations and wrote up fines totaling \$77,000.

Now I do not doubt that the second compliance review conducted after the fatality was thorough. But I have serious doubts about the thoroughness of the compliance review that took place less than 1 month before that fatality. Are we really supposed to believe that the conditions at that trucking firm deteriorated so rapidly in just 30 days? How is it that the first compliance review resulted in no violations, and the second one, after the fatality, revealed an endless list of problems, violations and fines?

I suspect the answer to those questions also explains why the National Transportation Safety Board has determined that the FMCSA's compliance review process is, in their words, "ineffective." I also suspect it explains why the NTSB has determined that the FMCSA responses to its recommendations in this area have been unacceptable.

Let me be clear: Our Nation's economy depends on a safe, efficient and well-capitalized trucking industry. In my home State of Washington, our farmers depend on these trucks to get their agricultural products in eastern Washington across the Cascade Mountains to the ports of Seattle and Tacoma in a safe and timely manner.

And American consumers have come to expect a great variety of options as they peruse the shelves at their retail outlets and supermarkets. Those goods do not get to those shelves by magic. They get there by truck.

But just as we need to make a more aggressive posture in getting people to buckle up their seatbelts, and drink and drive responsibly, we also need a truck safety agency that will find the problems with rogue trucking companies before fatalities occur, not after.

With that, I would like to turn it over to my ranking member, Senator Bond, for his opening statement.

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Good morning, and thank you, Madam Chair.

I welcome the witnesses and look forward to hearing their testimony on how the Department of Transportation (DOT) agencies believe we can make our highways and roads safer. While we are not the Senate Commerce Committee, who has legislative oversight over motor carriers vehicle safety and truck safety, I believe there are ways where we on this subcommittee can put our limited dollars behind programs that can and will save lives.

Madam Chair, you have mentioned the distressing number of bus and truck fatalities of late, and I think it is very appropriate we focus on highway fatalities and these recent accidents, further highlighting the need for additional efforts and better efforts to bring down our Nation's death toll.

It is both the administration's and Congress' duty to commit to solutions that will reduce highway fatalities of our Nation's traveling public. The deaths, 43,443 Americans last year, 2.7 million more injured, cannot be ignored.

I commend the NHTSA and the FMCSA for efforts to reduce the death toll. I believe we have some success stories, but there are clearly areas that need improvement.

Unfortunately, we will always face some unnecessary deaths on our Nation's highways because of human factors, driving and behavior which are very difficult to prevent. But heavy criminal penalties should serve as a deterrent to the individual bad judgments and bad actions that cannot be cured by regulation or inspection.

I was interested when the DOT announced the final rule on electronic stability control, or ESC, crash prevention technology, to make it standard equipment on every new vehicle sold by 2012. I am sure that Administrator Nason will go into detail about this lifesaving measure. It is estimated to potentially save up to 10,000 lives per year.

I applaud this effort and the administration for issuing this final rule some two years earlier than anticipated.

This technology will be second only to seatbelts, making our vehicles, our motor vehicles and other forms of transportation the safest they have ever been in history.

Still, everyone knows the number one safety measure to save lives is a seatbelt and shoulder harness. Good friends of mine who are state troopers—and I got to know a lot of them—have told me that they never unbuckled a dead person from a safety harness seatbelt. They found lots of dead people who had not had on belts and restraints.

When I was Governor, I always instructed the troopers driving me to obey the speed limits, and I always wore a shoulder harness and a seatbelt, which saved me from serious injury at a crash involving a driver who ran through a stop sign and broadsided us. But unfortunately, not everybody has gotten the message yet.

And on another area, we have seen a significant increase in the number of fatalities and deaths associated with motorcycles. Many of my colleagues believe that in order to save additional lives we must mandate the States to implement primary seatbelt laws and mandatory motorcycle helmets.

While I believe it is important that people understand the importance of seatbelts and motorcycle helmets, I have great questions about the Federal Government sanctioning States in order to get people to use seatbelts or motorcycle helmets. Sanctions are essentially Federal blackmail by Congress, who is telling the State "We are not going to return the money you pay into the Federal Highway Trust Fund because we in the District of Columbia know your job as Governors and State legislators better than you do." Well, that is the purpose of electing folks at the State and local level, to represent their constituents in the legislature and in the Governor's office.

When I was Governor, at several points I unfortunately had to spend a lot of time looking at federally imposed mandates. Many of them did not make any sense. I will not go into the list of them here, but they covered a wide range of areas.

I came up here to work with States. I did not come up here to tell the States "We are going to withhold your money unless you take all of our ideas."

During the debate on safety authorization, there were some who wanted the Federal Government to impose mandates and withhold funds to achieve seatbelt enforcement and motorcycle helmets. They were unsuccessful. I opposed imposing that kind of Federal mandate.

At the time, only 20 States had primary seatbelt laws in place. Since then, five States have decided on their own, without the help of Washington, to adopt primary seatbelt laws.

In addition, section 406 incentive grants have helped to persuade even hold-out States, like the Live Free or Die State of New Hampshire, to move toward adopting a primary seatbelt law. Nationwide, usage rates are 82 percent. And I believe, based on driver education, these rates will increase even higher.

I think we need to remember that we cannot make people wear seatbelts even with primary seatbelt laws. New Jersey had a primary seatbelt law and regrettably our former colleague, Governor Corzine might not be in the condition he is in today had he been wearing his seatbelt and his trooper had been obeying the speed limit.

My own State of Missouri has made great strides in seatbelt use, and this has been done without a primary seatbelt law. Our current use rate is 75.2 percent. And I hope, with education, we can improve that over time. But whether or not to adopt a primary seatbelt law in Missouri should be determined by those people elected by the citizens of our State. I hope they will. I honestly hope they will.

Despite a Federal repeal of the Federal helmet law in 1998, Missouri legislators and Governor have chosen to keep our existing helmet law in place. And I think that was a very good idea.

In the area of drunk driving safety—drunk driving, SAFETEA provided an important step in reducing highway fatalities and injuries. And Congress and the administration have made a significant commitment to combat drunk driving.

In 2005, only \$40 million was provided for incentives for alcohol-impaired driver counter measures. This year, the program is re-

ceiving \$125 million, and will continue to grow over the life of the bill.

High visibility campaigns and enforcement work effectively to make people think before they drink and drive. Obviously, some people are repeat offenders, where alcohol is an illness. But most people with education and knowledge will understand the risk drinking poses to themselves and other drivers on the road.

Since the creation of FMCSA, we have seen a large increase in resources made available to reduce the number of truck-related fatalities, and we are beginning to see results. The truck fatality rate, I understand, is 16 percent less today than it was 10 years ago. Over that same 10-year period, vehicle miles traveled had increased by over 24 percent.

Funding for FMCSA, established as a separate administration on January 1, 2000, has increased from \$280 million in 2001 to \$528 million in 2008, or an 89 percent increase for the primary mission of reducing crashes, injuries and fatalities involving large trucks and buses.

Like NHTSA, FMCSA is working on a truck vehicle safety hardening, such as crash avoidance systems, electronic on-board recorders, where we can monitor the number of hours a truck is in operation, and whether drivers are meeting their hours of service requirements.

FMCSA is also awaiting a court review on the hours of service regulations, which could come any day. This rule is designed as an enforceable science-based rule to maintain high safety standards.

I understand they are also working to issue regulations on medical certification standards, with recent discussions about special needs drivers. I hope that they will take a look at whether there is a problem with drivers who cannot or are unable to follow the laws and the rules of the road. We hope that preventing medically unqualified drivers from operating commercial vehicles will be achieved. I know this is on the NTSB's most wanted list. And I am pleased to see they are moving quickly.

I also know FMCSA has a 2010 initiative to provide additional safety requirements going after the worst carriers and drivers, getting them off the road. It should enable them to move beyond the current review of 2 percent of all trucks to a comprehensive review of some 60,000 to 75,000.

We have seen a temporary plateau in the number of related fatalities, but it is not enough to stay where we are. We need to bring it down and we hope the agencies can move forward to reduce the number of fatalities.

The fatalities have decreased as the Motor Carrier Safety Administration has increased enforcement of its regulations through compliance reviews and enforcement action.

Investments in state and local law enforcement to go after our worst offenders has been working, but there is always more we can do.

I thank you, Madam Chair.

Senator MURRAY. Thank you, Senator Bond.

We will now turn to our three witnesses. And we will begin with Nicole Nason, the Administrator of the National Highway Traffic Safety Administration.

Before you begin, each of you will have 5 minutes to give your testimony. We will try and keep you to your timeline, so we can ask adequate—have adequate time for questions. So that you know, all of your testimony will be submitted fully for the record for all of our members.

Ms. Nason.

STATEMENT OF HON. NICOLE R. NASON, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Ms. NASON. Madam Chairman, Senator Bond, thank you for the opportunity to testify about the Nation's traffic safety priorities and NHTSA's budget request for fiscal year 2008.

NHTSA is requesting \$833 million for fiscal year 2008, a net request of \$18 million over last year. Because of time constraints, I would like to speak to three areas today, which we believe hold great promise to arrest the Nation's rising highway fatalities: First, NHTSA's work to encourage greater deployment of crash avoidance technologies; second, our renewed commitment to end impaired driving; and third, our proposal to responsibly raise fuel economy standards in a way that does not decrease safety.

First, I am pleased to report that, earlier this month, Secretary Peters and I announced the final rule mandating electronic stability control on all passenger vehicles by 2011. Due to the hard work of our vehicle safety team at NHTSA, this rule was finalized nearly 2 years ahead of its statutory deadline.

Electronic stability control is a revolutionary technology, because it helps the driver avoid the crash altogether. This technology is especially effective at reducing rollovers, one of the most deadly types of crashes, particularly for SUV's.

Each year, 3 percent of traffic crashes involve rollover, but they count for one-third of all occupant deaths. NHTSA estimates that ESC will save between 5,000 and 9,600 lives annually when fully deployed on the fleet. And as Senator Bond noted, we believe it could prove to be the greatest vehicle safety innovation since the seatbelt.

Crash avoidance technologies like ECS are just the beginning of what we hope is a new era in highway safety, where many crashes and the pain and suffering from those crashes are prevented outright.

We are also renewing our commitment to reductions in impaired driving fatalities. Last November, I was honored to be asked to serve as the honorary chair of the campaign to eliminate drunk driving by Mothers Against Drunk Driving (MADD). This new campaign has brought together law enforcement, auto makers, MADD, and responsible distilled spirits companies to address this tragic problem.

I have great hopes for this campaign, not only because it builds on what we know to be effective, vigorous enforcement coupled with a national media campaign, but also because of its embrace of alcohol ignition interlocks. These devices, which are now installed on about 100,000 cars of driving under the influence (DUI) offenders, prevents the impaired motorist from driving the car in the first place.

We believe current research can produce a new generation of the interlocks that will be noninvasive and much more reliable. Large-scale deployment of this technology coupled with continued law enforcement offers the very real prospect that one day drunk driving could be a thing of the past.

Finally, our budget requests an additional \$600,000 in anticipation of conducting a rulemaking to boost passenger car fuel economy standards responsibly. This proposal has many benefits over the current flawed system, such as spreading the regulatory burden among all manufacturers; maintaining consumer choice; helping to ensure that every type of car, whether small, midsize, or large, becomes more fuel efficient; and most importantly, this proposal ends the trade-off between sacrificing safety for better fuel economy.

Our legislation ends the so-called CAFE safety penalty, by encouraging auto makers to boost fuel economy not by downsizing vehicles, but by adding fuel-saving technologies. The 2002 National Academy of Science's study on fuel economy found that the CAFE statute was responsible in part for an additional 1,300 to 2,600 traffic fatalities in the year 1993, the year they looked at, because of downsizing and down-weighting of vehicles.

If the administration's proposal is enacted by Congress, no longer will increasing passenger car fuel economy mean a decrease in safety.

Madam Chairman, anything but a reduction in our annual fatalities is cause for alarm. That is why it is important that we continue our progress researching and deploying crash avoidance technologies, while wisely using the resources provided by Congress under SAFETEA-LU and this subcommittee to enhance our behavioral programs. These are the best tools that we have right now to lower fatalities over the long term.

PREPARED STATEMENT

Thank you again. I look forward to working with all of the members of the subcommittee on this important issue. And I would be pleased to answer any questions.

Senator MURRAY. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF HON. NICOLE R. NASON

Good morning Chairman Murray, Senator Bond, and distinguished members of the subcommittee. It is my pleasure to appear before you today to discuss the President's fiscal year 2008 budget for the National Highway Traffic Safety Administration (NHTSA) and to highlight for you some of the initiatives we have underway and planned for 2008.

NHTSA is charged with the responsibility of assuring the safety of vehicles and drivers on the roadways of America. We appreciate the support this subcommittee has provided NHTSA in the past by funding our programs and activities.

HIGHWAY SAFETY CHALLENGES

In 2005, 43,443 people in the United States lost their lives in traffic-related crashes. Additionally, approximately 2.7 million individuals are injured in traffic-related crashes annually. Traffic-related fatalities are the leading cause of death for Americans in age groups 4 through 34. They also represent a staggering economic cost of about \$230 billion annually, or 2.3 percent of the U.S. gross domestic product.

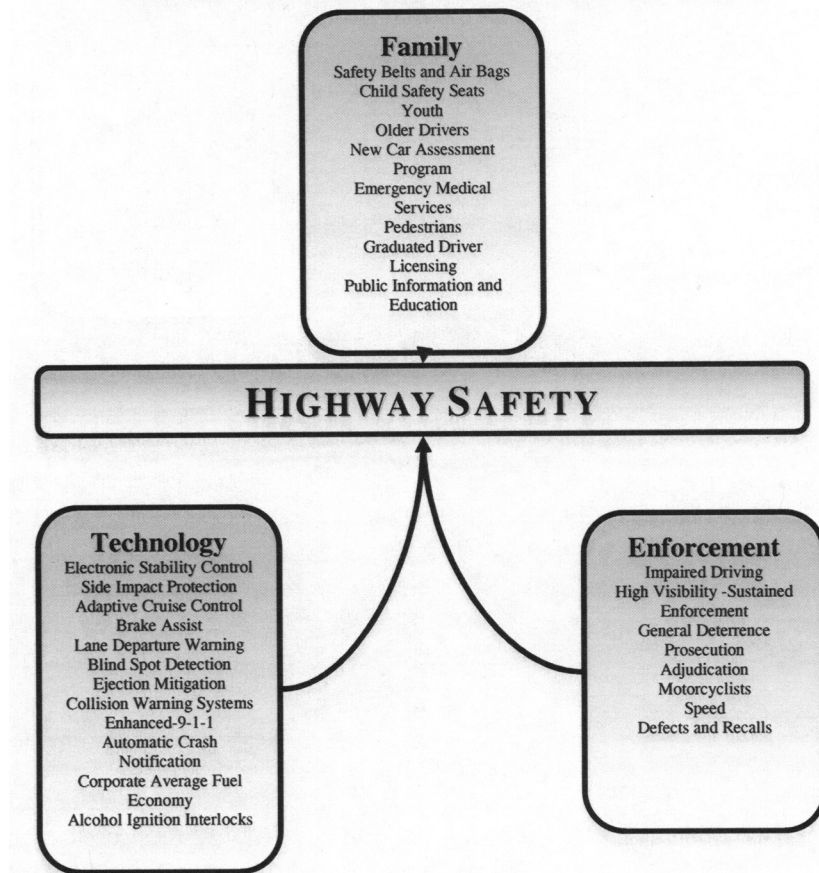
The good news for America is that motor vehicles today are the safest in history. A 2004 study by NHTSA showed that vehicle safety technologies saved an estimated

328,551 lives from 1960 through 2002. The annual number of lives saved grew steadily from 115 in 1960, when a small number of people used seat belts, to 24,561 in 2002, when most cars and light trucks were equipped with modern safety technologies and seat belt use achieved 75 percent. Currently seat belt use stands at 81 percent.

To continue to improve the safety of vehicles, I am pleased to report that earlier this month Secretary Mary Peters and I announced the release of a final rule to require electronic stability control (ESC) on all new passenger vehicles starting in 2009, with 100 percent compliance by 2011. This technology, when fully deployed, has the potential to save between 5,000 and 9,600 lives annually.

Improving vehicle safety and reducing fatalities and injuries on the Nation's roads requires a comprehensive approach involving vehicle regulation, enforcement and behavior modification. Our areas of focus have been categorized into the following model shown below.

NHTSA's Priority Approach to Highway Safety



Keeping families safe when they drive is the core of NHTSA's mission, a goal shared by our local, State and national partners. Whether a new driver or a seasoned driver, everyone in the family has a responsibility to do all they can to make each and every ride as safe as possible. Parents must take responsibility by buckling their children in age appropriate restraints, and set the example themselves by buckling up. In February, NHTSA sponsored a public meeting on Lower Anchors and Tethers for Children (LATCH), furthering our commitment to ensure that appropriate child safety seats and technologies are available and properly used. Later

this year we plan to host a meeting on school bus safety to address the safety issues in this important area.

Parents must remain involved as their children learn to drive. Obeying speed limits, wearing a seat belt, avoiding driver distractions and not driving impaired should be standard operating procedure for all novice drivers. We are seeing very promising safety results from State graduated licensing programs, but parents continue to be key contributors to young driver safety by establishing and enforcing reasonable safety practices.

As drivers mature, NHTSA programs help to promote safety among our Nation's seniors. Today, 35 million Americans are over age 65. By 2030, the population of those over 65 is expected to double to 70 million. NHTSA is developing efforts to maintain personal mobility for as long as drivers are safe to drive while also providing guidance for medical professionals and families to help older drivers assess their driving capability before a tragedy occurs.

NHTSA also supports comprehensive Enhanced 9-1-1 technologies that provide system-wide improvements for communities to decrease response time and improve post-crash care. Enhanced Emergency Medical Services (EMS) technologies mitigate the injuries sustained by individuals in crashes, increasing the survivability of the incident. Our request includes \$1.25 million to implement the E-911 coordination office and to provide technical support to the EMS community. Additionally, we request \$250,000 to continue the development of the National EMS Information System (NEMSIS).

The support of law enforcement is crucial to our mission. We work closely with State and national law enforcement organizations to find and share best practices in traffic law enforcement. In this area, we are planning meetings later this year to address law enforcement leadership and expanded use of ignition interlock devices as a means of ridding our highways of impaired drivers.

NHTSA also coordinates with State and local law enforcement and other safety organizations to develop ways to decrease impaired driving and speeding, and increase safety belt use. Under SAFETEA-LU's High Visibility Enforcement programs, we added a third national mobilization effort starting in December 2006, and we developed a new tag line, "Drunk Driving. Over the Limit. Under Arrest." This is in addition to the agency's National Click It or Ticket mobilization that occurs each Memorial Day and the National Impaired Driving Crackdown that begins every August.

Finally, we strongly support the reform of fuel economy standards for the passenger car fleet, similar to how we reformed the standards for the light truck fleet last year. As part of the President's "20 in 10" proposal that he outlined in his State of the Union Address, NHTSA has submitted draft legislation to reform and increase the passenger corporate average fuel economy (CAFE) standards. We have also requested \$598,000 in additional funding to provide the analysis and rule-making support for these changes.

FISCAL YEAR 2008 BUDGET REQUEST SUMMARY

For fiscal year 2008, NHTSA requests \$833 million for its motor vehicle and highway safety programs and activities.

Within the total figure requested, \$711 million reflects the SAFETEA-LU authorized levels of contract authority for the Highway safety programs, grant programs, and the National Driver Register. The balance of \$122 million reflects our requested level to fund the vehicle safety programs as contract authority, not general funding as specified in SAFETEA-LU. Legislation to amend SAFETEA-LU to authorize contract funding for the vehicle programs has been proposed by the Administration. This change will allow NHTSA to fund all of its programs and activities from a single source, the Highway Trust Fund. This is also consistent with the manner in which the vehicle safety program was funded in fiscal year 2004-2007.

NHTSA's fiscal year 2008 request is \$18 million more than the President's fiscal year 2007 request. Of this, \$16.7 million will be used to align NHTSA's programs with the SAFETEA-LU authorized funding levels. The balance of \$1.3 million includes increases to several programs and activities offset by decreases to other programs and activities. Increases include \$1.1 million for research on crash avoidance technologies, \$598,000 for analysis to support a reformed CAFE standard for passenger cars, \$1.0 million for an E-911 implementation office and the National EMS Information System (NEMSIS), \$1.0 million to support NHTSA's priority rule-making actions and \$1.5 million for normal inflation in salaries and administrative areas. These are partially offset by decreases such as \$2.6 million to the New Car Assessment Program (NCAP) due to the completion of the testing schedule align-

ment in fiscal year 2007, and \$500,000 to the biomechanics program due to the completion of work supporting an upgrade to the side-impact regulation.

BEHAVIORAL SAFETY

For fiscal year 2008, NHTSA requests \$107.75 million for its Behavioral safety programs and activities. This is \$2.5 million above the fiscal year 2007 President's request, and the same as the level authorized in section 2001(a)(2) of SAFETEA-LU.

After two consecutive years of decline in overall highway fatalities and impaired driving fatalities, and having achieved the lowest recorded fatality rate in history, the highway fatality rate per 100 million vehicle miles traveled (VMT) rose slightly to 1.45 in 2005, up from 1.44 in 2004. Contributing to this figure is a 13 percent increase in motorcycle fatalities in 2005, up to 4,553 from 4,028 in 2004. This marks an increase of 115 percent since 1997. NHTSA requests an increase of \$192,000, (or 24 percent) to its motorcycle program funding to assist in addressing this problem.

While the overall highway fatality rate has increased slightly, passenger vehicle occupant fatalities dropped by 451, from 31,866 in 2004 to 31,415 in 2005, the lowest level since 1994. The number of young drivers (16–20) killed declined by 4.6 percent from 3,538 to 3,374, and fatal crashes involving young drivers declined by 6.3 percent from 7,431 to 6,964. The number of children up to age 15 dying in crashes also dropped from 2,622 in 2004 to 2,348 in 2005.

In fiscal year 2007 and 2008, NHTSA is focusing attention on those areas that can be most effective in continuing the downward trends experienced in past years. NHTSA recognizes that success will not be accomplished by the agency alone, but through the work of our governmental and non-governmental partners and the everyday behaviors of our citizens. NHTSA is dedicated to behavioral programs that encourage citizens to reduce the tragic loss of life on our highways by simple, controllable actions such as buckling up, ensuring that their children are buckled up on every trip, not driving when impaired, wearing a motorcycle helmet that is DOT-compliant and other protective gear when operating a motorcycle, observing posted speed limits, not engaging in risky driver behavior and exercising parental responsibility by taking an active role in the driving education of teenagers.

NHTSA requests a total of \$3.82 million to increase the effectiveness of its EMS program. For fiscal year 2008, \$2.32 million of this total will be used to maintain the agency's core programs, which support heightened National EMS leadership through the Federal Interagency Committee on EMS, as mandated by section 10202 of SAFETEA-LU, in addition to continuing efforts to improve workforce capabilities of EMS personnel and assuring consistent nationwide EMS systems aimed at enhancing post-crash care of crash victims.

VEHICLE SAFETY

For fiscal year 2008, NHTSA requests \$122 million for its Vehicle safety programs. Within the total of \$122 million, NHTSA requests increases for several program initiatives, such as \$1.1 million to conduct increased research on advanced crash avoidance technologies, and \$1.0 million in support of priority rulemaking activities.

Introduction of technology into the motor vehicle is occurring at an ever-increasing rate, providing consumers with greater choices in safety, ease-of-use and entertainment options. In addition to its traditional vehicle research, rulemaking, enforcement and safety defect investigation initiatives, NHTSA's Vehicle Safety programs will assess the lifesaving benefits of these emerging technologies as they enter into the vehicle fleet in fiscal year 2008 and beyond. The additional \$1.1 million requested for advanced technology research will assist us in this effort.

As mandated by section 10307 of SAFETEA-LU, NHTSA has published a rule requiring NCAP ratings on sales stickers of new vehicles, providing consumers with more information on the safety of new vehicles at the point of sale. The fiscal year 2008 requested level of \$7.9 million reflects the annual cost for testing vehicles under the NCAP program. The additional funds provided for NCAP in fiscal years 2006–2007 were to re-align the testing schedule to allow for these sales stickers on the new vehicles. This alignment will be complete in fiscal year 2007, negating the requirement for additional NCAP funds in fiscal year 2008.

NATIONAL DRIVER REGISTER

NHTSA requests \$4 million for the National Driver Register program and associated activities, the same level requested in the President's fiscal year 2007 budget and authorized in SAFETEA-LU. This program supports NHTSA's safety mission by providing a credible source of vehicle driver records for use by State motor vehi-

cle administrators in determining whether to issue or renew a license and for use by maritime and airline agencies and private industries. In addition, this information is becoming increasingly important for security background checks by the Office of Personnel Management.

HIGHWAY SAFETY GRANTS

In recognition of the role of the agency in delivering data-driven programs and countermeasures in highway safety, NHTSA is requesting funding for its grant programs at the SAFETEA-LU authorized levels. We request \$599.25 million, an increase of \$15.5 million above the President's fiscal year 2007 request. The Act extended several highway safety grant programs and created several more that will serve to improve safety, including new programs for safety belt performance (section 406), motorcycles (section 2010), child safety and booster seats (section 2011) and data/information systems (section 408).

During fiscal year 2007 and fiscal year 2008, in addition to implementing the four new grant programs, continued attention will be given to NHTSA's core grant programs: section 402 Formula Grants, section 405 Occupant Protection Incentive Grants and section 410 Alcohol Impaired Driving Countermeasures Incentive Grants. Combined, these grant programs will provide States with the resources to implement strategies based on national data and analysis but tailored to meet the safety problems of diverse municipalities across the Nation.

Additionally, the requested level includes the fully authorized funding of \$29 million for the high visibility enforcement campaigns. NHTSA will conduct three campaigns annually and the additional funds above the fiscal year 2007 requested level represent the SAFETEA-LU authorized funding level to provide three campaigns.

Finally, grant administrative expenses are requested at the authorized level of \$18.25 million. These funds cover a proportionate share of NHTSA's salaries and administrative costs in support of the highway safety grant programs; provide full funding for the annual National Occupant Protection Use Survey (NOPUS) and provide partial funding for the Highway safety research program.

SUPPORT OF THE PRESIDENT'S MANAGEMENT AGENDA

NHTSA continues to fully support all of the initiatives contained in the President's Management Agenda (PMA). As evidenced by our fiscal year 2008 congressional justification, NHTSA assures a direct linkage of plans, programs and budgets, one of the most important tenets of the PMA. NHTSA is a data-driven and science-based agency. Funding and program decisions are based on maximizing lives saved and reducing the severity of injuries and supporting DOT and NHTSA goals and objectives in quantifiable ways.

In partnership with the other trust-funded DOT agencies, NHTSA has enjoyed a "clean" unqualified audit opinion for 8 years in a row. In response to recent OMB guidance on internal controls (Circular A-123), NHTSA has initiated an aggressive internal management control program to fully document all processes and activities, identify any weaknesses and mitigate them to acceptable risk levels.

NHTSA also fully participates with the Department to implement technology where it sees benefits. Included are recent efforts to automate the procurement, invoicing, payroll, personnel and travel activities in conjunction with other DOT agencies. Also, NHTSA recently integrated all its desktop support, e-mail, and infrastructure within DOT's common operating environment in anticipation of the move to the new DOT headquarters building. Future efforts will include integration and standardization of grants processing and administration as well as document management. All IT investments made by NHTSA are reviewed and approved by a senior management governance structure to assure optimal use of the limited investment funding and full integration within the DOT infrastructure.

CONCLUSION

Previous safety efforts by NHTSA, such as identifying safety technologies, issuing safety rules, modifying driving behaviors and educating the public on motor vehicle safety have significantly reduced the safety problem over time. These efforts have also resulted in motor vehicles today that are the safest in history and behaviors that are the safest in history, such as near record seat belt usage. Still, with over 43,000 annual deaths resulting from motor vehicle crashes, NHTSA's work is far from complete. Accordingly, we respectfully request support for the President's budget so our life-saving work may continue.

Senator MURRAY. We will now hear from John Hill, the Administrator of the Federal Motor Carrier Safety Administration.

**STATEMENT OF HON. JOHN H. HILL, ADMINISTRATOR, FEDERAL
MOTOR CARRIER SAFETY ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION**

Mr. HILL. Good morning, Chairman Murray, Ranking Member Bond, and members of the subcommittee. Thank you for inviting me to testify before you today.

I am pleased to describe how the Federal Motor Carrier Safety Administration is working to make the Nation's highways safer.

The good news is that the past 2 years we, as a Nation, achieved the lowest truck fatality rate in 30 years. This means that despite trucks traveling more miles, over 7 percent in the past 5 years, the proportion of fatalities is down. However, we know that despite these gains, we are not seeing a drop in overall fatalities. To meet this daunting challenge, we are finding innovative ways to increase safety on our Nation's highways.

We initiated a program recently in cooperation with the National Highway Traffic Safety Administration called Ticketing Aggressive Cars and Trucks, or TACT, which was carried out in the State of Washington.

Working with the State Trucking Association, troopers conducted a high visibility enforcement campaign to reduce unsafe driving behavior in and around large trucks. The program included a high profile media campaign to build awareness and educate drivers about the hazards of driving around commercial motor vehicles.

Based upon TACT's success, FMCSA will expand the program to selected States with the highest fatality and crash rates. In fact just this month, I traveled to Kansas to assist in the announcement of the Kansas Highway Patrol's Trucks on Patrol for Safety, or TOPS, Program based directly on the success of the TACT model that we used in Washington.

We now have 22 States conducting some form of non-commercial vehicle program using the SAFETEA-LU provisions that were enacted in 2005.

We will also work with our stakeholders from the trucking and motor coach industries and the many committed safety advocate organizations to find innovative solutions. We will do this through our newly chartered advisory committees, the Commercial Driver's License Task Force and the Motor Carrier Safety Advisory Committee.

FMCSA's fiscal year 2008 budget reflects that safety is our number one priority. The largest share, \$489 million or 93 percent, focuses directly on enforcement programs to reduce large truck and bus crashes.

In addition to our own efforts, we partner with the States by providing them grants to enforce commercial truck and bus safety laws, with special attention to motor coach companies and carriers registered as hauling hazardous materials.

Of the \$489 million, \$300 million will go to grant programs, including more than \$202 million for Motor Carrier Safety Assistance Program grants; \$32 million for border enforcement activities; and \$25 million for improvement of CDL activities.

FMCSA's oversight programs are producing results. In fiscal year 2006, FMCSA and our State partners conducted over 15,000 compliance reviews. These compliance reviews resulted in the initiation

of more than 4,000 enforcement actions. FMCSA found over 1,000 companies deficient to the extent we placed their operations out-of-service. And we estimate that the compliance reviews conducted in 2004 resulted in over 2,700 fewer crashes, nearly 2,000 fewer injuries, and over 100 fewer fatalities.

In addition to conducting review of carrier operations, FMCSA and our State partners conducted over 3 million roadside inspections of high risk carriers' vehicles during fiscal year 2006. As a result of these inspections, approximately 220,000 drivers were removed and placed out of service until serious violations could be remedied, while approximately 547,000 unsafe vehicles from our highways were also removed.

Again, we know from previous analysis that roadside inspections prevent crashes and save lives. We estimate that the roadside inspections conducted in 2005 resulted in over 18,000 fewer crashes, approximately 13,000 fewer injuries, and approximately 700 fewer fatalities.

While we recognize there is still much work to be done to make our highways safer, we believe safety results from these programs.

Madam Chairman, I wish to express my appreciation for all that this subcommittee has done in supporting our agency. In our 7 years as an independent agency, we have made strides toward reducing fatalities and injuries on our Nation's highways. Your continued investment in the agency will result in added safety emphasis on our Nation's highways.

PREPARED STATEMENT

I look forward to working with you and achieving our mutual goals and would be happy to respond to your questions.

Thank you.

Senator MURRAY. Thank you very much, Mr. Hill.

[The statement follows:]

PREPARED STATEMENT OF HON. JOHN H. HILL

Good Morning Chairman Murray, Ranking Member Bond, and Members of the Committee. Thank you for inviting me to testify before you. I am pleased to describe how the Federal Motor Carrier Safety Administration (FMCSA) is working to make the Nation's highways safer as it relates to commercial vehicle operations. The good news is that for the past two years, we as a nation achieved the lowest large-truck fatality rate in 30 years. However, we know that despite these gains, we are not seeing a drop in overall fatalities. This means that despite more trucks traveling more miles—over 7 percent in the past five years—the proportion of fatalities is down.

To meet this daunting challenge we are innovating. We will increase our effectiveness and efficiency and we will continue to leverage the talents and resources of our State partners. We will also work closely with our stakeholders from the trucking and motorcoach industries, and the many committed safety advocate organizations through our newly chartered advisory committees, the Motor Carrier Safety Advisory Committee and the Commercial Driver's License (CDL) Task Force.

SAFETY IS NUMBER ONE

The largest share—\$489 million or 93 percent—of our budget focuses on reducing large truck and bus crashes. In addition to our own efforts, we partner with the States by providing them grants to enforce commercial truck and bus safety laws, with special attention to motorcoach companies and carriers registered as hauling hazardous materials.

FMCSA's oversight programs are producing results. In fiscal year 2006, FMCSA and our State Partners conducted 15,177 compliance reviews. These compliance re-

views resulted in 4,195 enforcement actions being initiated. FMCSA found 1,035 companies deficient to the extent that we placed their operations out-of-service. We know from analysis of our compliance review programs that after a compliance review, carriers improve their safety operations. We estimate that the compliance reviews conducted in 2004 resulted in over 2,700 fewer crashes, approximately 1,900 fewer injuries, and over 100 fewer fatalities.

In addition to conducting reviews of carrier operations, FMCSA and our State partners also conducted over 3 million roadside inspections of high risk carriers' vehicles during fiscal year 2006. As a result of these inspections, we placed approximately 220,000 drivers out-of-service until serious violations could be remedied. We also removed approximately 547,000 unsafe vehicles from our highways. Again, we know from previous analysis that roadside inspections prevent crashes and save lives. We estimate that roadside inspections conducted in 2005 resulted in over 18,000 fewer crashes, approximately 13,000 fewer injuries, and approximately 700 fewer fatalities.

While we recognize there is still much work to be done to make our highways safer, FMCSA is proud of the safety impact resulting from these programs.

SAFETY PARTNERSHIPS WITH STATES

In SAFETEA-LU Congress provided us new authority to allow Motor Carrier Safety Assistance Program (MCSAP) Grants to be used for traffic enforcement on commercial motor vehicles (CMVs) without an accompanying safety inspection. The authority also allows reimbursement of traffic enforcement against non-CMV's when such actions are necessary to improve CMV safety (i.e., cars driving unsafely around trucks).

This new direction is consistent with the findings of FMCSA's long-term crash causation studies, and other similar studies, that have identified driver behavior as the leading causal factor in all crashes. It also addresses findings in those same studies that identify the non-CMV driver as the causal factor in a majority of CMV/non-CMV crashes. By expanding this traffic enforcement authority, FMCSA and its State-partners are able to reach out to a broader population of law enforcement organizations in an effort to improve delivery of the program and achieve FMCSA's goal of reducing fatal crashes.

TACT PROGRAMS

In cooperation with the National Highway Traffic Safety Administration, we recently piloted the Ticketing Aggressive Cars and Trucks or "TACT" program in the State of Washington. Working with the State trucking association, troopers conducted a high visibility enforcement campaign to reduce unsafe driving behavior in and around large trucks. The program included a high profile media campaign to build awareness and educate drivers about the hazards of driving around commercial motor vehicles.

The first TACT pilot program was successful in large part due to the cooperative efforts of DOT, State, and local law enforcement agencies that were involved. The evaluation showed a considerable reduction in unsafe driving behaviors on the designated enforcement corridors. Based upon its success, FMCSA will expand TACT to selected States with the highest fatality and crash rates. In fact just this month, the State of Kansas begins its Trucks on Patrol for Safety (TOPS) program based directly on the success of TACT in Washington. These programs demonstrate the effectiveness of combining high-visibility enforcement with education and communication. FMCSA will print and disseminate the TACT "How to Guide" to State agencies nationwide and encourage all MCSAP States to adopt this successful program or some form of non-CMV enforcement as allowed in SAFETEA-LU.

SAFETY GRANTS TO STATES

In fiscal year 2008, FMCSA will provide \$300 million in grants, including the Border Enforcement Grants Program to the following areas:

- \$202 million for Motor Carrier Safety Assistance Program (MCSAP) Grants enabling States to conduct more than 2 million roadside driver and vehicle inspections and more than 5,000 compliance reviews. This includes \$29 million to be used towards 28,500 State-conducted New Entrant Audits as authorized by SAFETEA-LU;
- \$25 million for improvement of State CDL activities to prevent unqualified drivers from being issued or maintaining a CDL;
- \$5 million for management and operations of the Performance Registration Information Systems and Management (PRISM) program, linking State commercial motor vehicle registration systems with carrier safety performance data to

- identify unsafe commercial motor carriers and prevent them from registering their vehicles;
- \$25 million for the Commercial Vehicle Information Systems and Networks (CVISN) grants towards improving the exchange of safety information, electronic screening of trucks and buses at the roadside and the administration of interstate credentials;
- \$3 million for safety data improvement grants which are vital for the correct identification of high risk carriers; and
- \$8 million for modernization efforts of the Commercial Driver's License Information System (CDLIS).

SAFETY AT THE BORDER

We have a stringent safety plan in place to ensure that trucks from Mexico that enter the United States under our limited, year-long demonstration program are safe to make deliveries. Our plan includes conducting safety audits in Mexico before the company is granted authority to operate beyond the current 25-mile restricted border zone. The trucks must be insured by a U.S.-licensed insurance firm and they must meet all U.S. safety standards. And, as we already do now at border crossings, we will continue regular inspections of vehicles and drivers.

In addition, our fiscal year 2008 budget request includes \$32 million for the Border Enforcement Grants Program which will support State efforts, along with our own Federal force, to enforce compliance by foreign carriers with the Federal Motor Carrier Safety Regulations, operating authority requirements, and insurance rules. We estimate that the States will conduct approximately 350,000 vehicle and driver inspections at the Northern and Southern Borders as well as an estimated 30,000 driver license/authority/financial responsibility checks at the border. Close cooperation between Federal and State agencies will continue to be necessary to ensure safe and secure cargo, vehicles, drivers, and authorized carriers cross our international borders.

SAFETY THROUGH INNOVATIVE TECHNOLOGY

FMCSA is working with the States and partners in private industry to advance innovative safety technologies that have the potential to reduce serious injury and fatal crashes involving large trucks. We recently tested and evaluated a number of these on-board safety systems and the data is impressive.

Roll stability control systems and electronic stability control systems are two different types of automated control systems that reduce the vehicle's throttle and apply brakes without driver intervention to decelerate the vehicle if a high rollover risk is detected. Crashes caused by excessive speed in curves, evasive maneuvers, and loss of vehicle control are typical conditions that are often addressed by stability control systems. The system tested was estimated to potentially reduce about 20 percent of rollover crashes that are caused by driving too fast around a curve. And it could potentially reduce roadway departures by about 33 percent. Presently, we are aware of about 40,000 units of this technology being sold.

Another technology—with approximately 70,000 units distributed—is a forward collision warning system. When a large truck with the system approaches a slower moving vehicle, urgent warnings are issued from the system. The purpose of these warning systems is to improve driver behavior, by providing feedback about safe following distances to drivers. Our recent field test showed that this system helped drivers reduce rear-end collisions by approximately 21 percent, and drivers who used the system maintained longer following distances between their vehicle and a vehicle in front.

Finally, lane departure warning systems warn drivers if they are about to deviate from the lane. Our field test showed that the systems have the potential to reduce 21 percent to 23 percent of single vehicle roadway departure crashes.

SAFETY PRIORITIES—FISCAL YEAR 2008

Our fiscal year 2008 funding request will provide the necessary resources to implement key priorities to increase safety including: (1) continuing our focus on driver safety in all programs, by conducting even more driver roadside enforcement and inspections in cooperation with our State and local partners; (2) intensifying our focus on motorcoach safety by prioritizing our Motor Carrier Safety Assistance Program and Federal activities in this area, while also focusing enforcement efforts on higher risk curbside bus operators; (3) testing our Comprehensive Safety Analysis 2010 initiative, which will provide a new approach to the safety fitness rating—and allowing a broader enforcement exposure to the motor carrier industry; and (4) opti-

mizing our organizational structure to increase efficiency and give the American taxpayers the biggest safety increase possible for their investment in FMCSA.

DRIVER FOCUS

Recent studies, including FMCSA's Large Truck Crash Causation Study (LTCCS), continue to emphasize the part that drivers play in crash causation and avoidance. In the LTCCS, commercial motor vehicle (CMV) driver action or inaction was determined to be the "critical reason" for the crash in 87 percent of the crashes where the crash was attributed to the CMV. In fiscal year 2008, FMCSA will address driver safety knowledge "gaps" found by a Technical Working Group of government and private partners. We will hold public listening sessions and a major public conference to define what actions will address these knowledge gaps and obtain stakeholder commitments to partner with FMCSA to implement the action items quickly and efficiently. FMCSA will also work with our State partners to ensure that they conduct more driver inspections at the roadside as specified in their respective Commercial Vehicle Safety Plan (CVSP).

Our focus on drivers also includes initiatives to improve oversight of medical conditions that affect CMV safety. These initiatives will increase safety by helping to reduce the number of driver's who have medical conditions which adversely impact their ability drive safely. We currently have three major initiatives under way:

Medical Review Board

Under this initiative we will revisit all of our regulations in the medical arena to ensure they reflect the most recent scientific information. The Medical Review Board is a five-member panel of experts, authorized by SAFETEA-LU, who advise FMCSA on medical standards and emerging medical issues. We announced the selection of the MRB members last year and the Board will be holding its fourth public meeting later this month. On the Board's agenda right now are diabetes, cardiovascular issues and Schedule II medications.

National Registry of Certified Medical Examiners

Our second initiative, also supported by SAFETEA-LU, is the establishment of a National Registry of Certified Medical Examiners. The Registry will provide a list of medical examiners who are authorized to perform the physical qualification examination of the more than 6 million truck and motorcoach drivers operating in interstate commerce. Our goal is to maintain ongoing competency of medical examiners through training, testing, certification and recertification. This will ensure that medical examiners fully understand, and stay current with, medical standards.

Merger of the CDL and Medical Certificate

This initiative would merge truck drivers' medical information with the CDL data system. Under the new system, when a driver gets his or her medical certification it would be sent to the State's division of motor vehicles, which would then be required to show on the CDL that the driver continues to be medically certified. If a driver's medical certificate expired, the State would be required to downgrade the CDL until the driver provided proof of his or her medical qualifications to operate commercial vehicles in interstate commerce.

CDLIS Modernization

FMCSA continues to work cooperatively with the States to implement a variety of activities designed to advance the agency's driver safety goals and effectively implement the program enhancements included in SAFETEA-LU. These efforts include the modernization of CDLIS to enable FMCSA and the States to take advantage of new technological advances and expand CDLIS storage capacity while increasing performance, responsiveness and adaptability to meet current and future requirements; development of CDL learner's permit rule to establish uniform procedures for State issuance of learner's permits and CDLs, including Social Security Number verification requirements and fraud prevention initiatives; and establishment of the CDL Task force to enable us to take advantage of the knowledge, experiences, and energies of the varies interest groups to identify ways to improve the effectiveness of the CDL program.

BUS SAFETY

Several high profile, and tragic, incidents underscored for all of us the importance of bus passenger safety. Even so, we should keep in mind that mile for mile, motor coaches are the safest form of commercial passenger transportation. Buses account for more passenger traffic in the United States than all other commercial modes of transportation combined. In response to recent motorcoach incidents, FMCSA has

increased its bus safety enforcement activities by prioritizing MCSAP and Federal activities in this area; by improving the method for selecting passenger carriers to inspect; by performing more compliance reviews of bus companies; and by improving training for motorcoach drivers.

In fiscal year 2006 FMCSA and our State partners conducted over 125,000 bus inspections. In 2007 we will conduct a compliance review of every motor coach operator that has not been rated.

In addition, FMCSA has taken important steps to focus on enforcing regulations that apply to curbside bus operators that provide fixed-route service among major cities in the northeast such as New York, Boston, Philadelphia, and Washington, DC. FMCSA and a coalition of State and local police agencies have formed a strike force performing inspections at the roadside and compliance reviews and enforcement actions against these companies. This initiative will continue into 2008.

COMPREHENSIVE SAFETY ANALYSIS 2010 AND COMPASS

Every organization should continuously strive to improve how it does business, and FMCSA is no exception. In fiscal year 2008, FMCSA will be midway through development of its Comprehensive Safety Analysis (CSA 2010) effort, which will lead our agency into a more extensive, effective and efficient approach to carrying out compliance and enforcement programs. The goal of CSA 2010 is to touch more regulated entities through a broader array of enforcement and educational interventions while optimizing FMCSA resources.

While CSA 2010 looks to improve the way that we do business, COMPASS is our program that looks to align and improve our Information Technology (IT) systems. COMPASS will allow FMCSA to take advantage of the opportunities that today's technology has to offer to improve access to information and accelerate data quality improvements to Federal and State roadside inspectors, auditors and safety investigators. Both of these programs are multi-year efforts designed to bring about better execution of programs, tax dollars savings and most importantly to save lives by reducing the number of crashes.

ORGANIZATIONAL EXCELLENCE

Although a young agency, we recognize the importance of continuous improvements brought about through assessing our strengths and weaknesses. In addition to modernizing processes and procedures, another agency priority is to scrutinize our organizational structure to look for ways to improve our organizational effectiveness. As priorities change, the structure of FMCSA must change as well in order to achieve maximum safety results. Every facet of the agency will be reexamined to deliver improved performance within the boundaries of the agency's resources.

FMCSA dedicates approximately 5.2 percent of its budget to Organizational Excellence which addresses improving the internal workings of the agency. FMCSA will undertake activities for continuous organizational improvement. Our organizational improvement activities will result in a more highly-trained and motivated workforce, enhanced cost-control measures, and improved decision-making processes, leading to more successful completion of our mission objectives. In addition, these activities make the agency a significant contributor to DOT's achievement of a "green" rating for elements of the President's Management Agenda (PMA).

CONCLUSION

Madam Chairman, I wish to express my appreciation for all that this committee has done in supporting FMCSA. In our seven years as an independent modal agency within DOT, FMCSA and the dedicated men and women of State and local law enforcement agencies, Departments of Motor Vehicles, State DOTs, and other State and local partners have made great strides toward reducing fatalities and injuries on our Nation's highways. Your continued investment in the agency will result in added safety emphasis on our Nation's highways. I look forward to working with you to achieve our mutual goals and would be happy to respond to any questions you may have. Thank you.

Senator MURRAY. I will now hear from Mark Rosenker, Chairman of the National Transportation Safety Board.

**STATEMENT OF HON. MARK V. ROSENKER, CHAIRMAN, NATIONAL
TRANSPORTATION SAFETY BOARD**

Mr. ROSENKER. Good morning, Chairman Murray, Ranking Member Bond. Thank you for allowing me this opportunity to present testimony on behalf of the NTSB.

It is my privilege to represent an agency that is dedicated to the safety of the traveling public. I am particularly proud to lead the Safety Board because when tragedies occur and the public begins to question their confidence in our transportation systems, the Safety Board helps restore that public confidence. It does that by conducting thorough, objective investigations and making recommendations to fix the system so similar tragedies will not happen again.

For example, when the Big Dig tunnel ceiling panels collapsed in Boston last year, Congress immediately turned to the Safety Board to investigate this tragedy because of its reputation for thorough independent investigations. This accident occurred on July 10, 2006 when a section of the I-90 connector tunnel became detached and fell onto the roof of a sedan, killing one of two occupants. A total of about 26 tons of concrete and suspension hardware fell onto the vehicle.

Highway accidents present their own challenges and unique opportunities for the Board. Every day there are approximately 19,000 accidents on our Nation's highways, causing over 43,000 fatalities and 3 million injuries each year.

The economic cost of these accidents is estimated to be about \$231 billion a year, or over \$800 for every person living in the United States.

In contrast to other modal investigations, virtually all of the 7 million highway accidents are investigated at the State and local level. Because of the Board's small size, our effectiveness depends upon our ability to select the most appropriate accidents and issue safety recommendations that will make a substantial contribution to the safety of our nation's highway system.

Last year, we highlighted the following highway safety issues: Motor coach fires; motor coach maintenance and oversight by FMCSA; cell phone use by bus drivers; median barriers; toll plaza designs; collision warning systems for trucks; highway vehicle and passenger vehicle incompatibility; highway construction oversight; and motorcycle safety.

Let me just touch on a few of these issues. The Board addressed the motor coach issue in the 2005 accident investigation near Dallas, Texas, where a motor coach was carrying elderly evacuees away from the predicted path of Hurricane Rita. Twenty-three elderly passengers were unable to escape the fire and died.

As a result of its investigation, the Board made a number of recommendations to NHTSA: The first, develop a fire protection standard for motor coach fuel systems; two, develop a fire detection system to monitor the temperature of wheel well compartments; and, three, evaluate motor coach emergency evacuation designs by conducting simulation studies and evacuation drills.

We also adopted a recommendation to FMCSA to continue to gather and evaluate information on the causes, frequency, and severity of bus and motor coach fires, and to conduct an ongoing

analysis of that data. As a result of this investigation, the Board also highlighted shortcomings in the oversight of the motor coach industry.

The Board concluded that FMCSA's compliance review system does not effectively identify unsafe motor carriers and prevent them from operating.

On September 12 and 13 of last year, the Safety Board held a public forum on motorcycle safety. Recent data indicates that the increase in fatalities among motorcycle riders far exceeded that of any other form of transportation. In 2005, 4,553 motorcyclists died in crashes. And the rate of motorcycle fatalities has increased by more than 25 percent since 1997.

The goal of the forum was to gather information about ongoing motorcycle safety research and initiatives, as well as safety countermeasures that may reduce the likelihood of motorcycle accidents and fatalities. Finally, I am very, very optimistic that recent developments in technology will help us move beyond crash mitigation and enter a new era where technology will help us prevent accidents from occurring in the first place.

Areas where the Board has already made recommendations involving new technologies include the use of electronic onboard recorders to increase the compliance of commercial drivers with the hours of service regulations; collision warning systems for trucks to help prevent rear-end collisions; and finally, electronic stability control for passenger vehicles to help drivers maintain control of their cars.

PREPARED STATEMENT

In conclusion, we have a great mission at the NTSB. We enjoy an excellent reputation and have accomplished much during our 40 years that we have been in business. I am very proud to work with the dedicated men and women of this agency. I have said this before and I will continue to say it: They are the best of the best.

I would be delighted to respond to any of your questions.

Senator MURRAY. Thank you very much, Mr. Rosenker.

[The statement follows:]

PREPARED STATEMENT OF HON. MARK V. ROSENKER

Good morning Chairman Murray, Ranking Member Bond, and Members of the Subcommittee. Thank you for allowing me this opportunity to present testimony on behalf of the National Transportation Safety Board regarding the agency's appropriation needs for fiscal year 2008. It is my privilege to represent an agency that is dedicated to the safety of the traveling public.

The NTSB is an independent Federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, and pipeline, and issuing safety recommendations to prevent future accidents. The Safety Board also oversees the assistance to victims and their families following commercial aviation accidents and also acts as the Court of Appeals for airmen, aviation mechanics and mariners whenever certificate action is taken by the Administrator of the Federal Aviation Administration (FAA) or the U.S. Coast Guard Commandant or when civil penalties are assessed by the FAA.

Since its inception in 1967, the Safety Board has investigated about 130,000 aviation accidents and thousands of surface transportation accidents. In addition, the Safety Board has issued more than 12,600 safety recommendations in all modes of transportation with an 82 percent acceptance rate for our recommendations.

Let me say that our Nation's transportation system is very safe, and the men and women who work hard every day to operate the transportation system and keep it

safe have our sincere admiration and appreciation. That said, the Safety Board is committed to the idea that there is always room for improvement. For this reason, we conduct careful, scientific investigations of transportation accidents to determine how the transportation system can be made even safer.

This winter, the Board held public meetings (known as “Sunshine” meetings) to complete our investigations of the motorcoach fire on Interstate 45 near Wilmer, Texas during the Hurricane Rita evacuation; the 2005 head-on collision of two freight trains in Anding, Mississippi; the crash of Pinnacle Airlines flight 3701 at Jefferson City, Missouri, and the 2006 engine room fire aboard the commuter ferry SPV Massachusetts in Boston Harbor. Also, we held Sunshine meetings for the crash of Circuit City Cessna 560 at Pueblo, Colorado and the Bali Hai Bell 206 and Heli-USA Aerospatiale AS350 helicopter accidents in Hawaii.

On March 27, 2007, we held a public forum on runway incursions, a particularly important item on our list of Most Wanted Transportation Safety Improvements. In the months ahead, my colleagues and I will hold Sunshine meetings to conclude several important investigations, including the October 2006 accident that killed New York Yankees pitcher Cory Lidle and a pilot-rated passenger; the Chalk’s Ocean Airways seaplane accident that killed 20 people in Miami, Florida; and another derailment of a Chicago Transit Authority Blue Line train; and our investigation of last year’s tunnel ceiling collapse of the I-90 connector tunnel that killed a motorist in Boston, Massachusetts.

As required by international agreement, the Board often sends investigators to other countries to investigate aviation accidents. When a U.S.-manufactured, U.S.-registered, or a U.S.-operated aircraft is involved in an accident in a foreign country, the Safety Board leads the U.S. participation in the investigation. Each year, our investigators participate in about 20 major foreign aviation accidents. For example we are participating in an investigation involving the September 29, 2006 midair collision in Brazil between a Boeing 737-800 operated by Gol airlines and an Embraer Legacy 600 business jet owned and operated by Excelair of Long Island, New York. And since the beginning of the calendar year, 3 Boeing 737s have crashed in Indonesia. Of those three airplanes, two were being operated by Adam Air, and one by Garuda airlines. Because the airplanes involved in these accidents were certificated and manufactured in the United States, we are leading the U.S. efforts to investigate these accidents.

SAFETY ISSUES

I would like to begin by discussing safety issues that relate to the transportation modes that are represented here today.

Last year, the Safety Board testified before the House Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, regarding the safety benefits of excess flow valves (EFV) on natural gas distribution pipelines. EFVs are an effective way to save lives and protect property, and the Safety Board has long advocated their use. The Board is pleased with the passage of legislation last year mandating the installation of EFVs on natural gas pipelines serving single-family residential housing, and we look forward to the safety improvements that will result.

As in other transportation modes, the Board has called upon the Pipeline and Hazardous Materials Safety Administration to set working hour limits for pipeline controllers. Such limits, if based on fatigue research, circadian rhythms, and sleep and rest requirements, could reduce the number of accidents caused by human fatigue.

The Safety Board has recently addressed a number of important highway safety issues. These include highway median barriers, toll plaza designs, collision warning systems, vehicle incompatibility, highway construction oversight, cell phone use by bus drivers, and motorcoach occupant protection.

On March 2, 2007, our investigators were at the scene of a motorcoach accident in Atlanta that involved a baseball team from Bluffton University in Ohio. The motorcoach took an exit ramp from the left lane, failed to stop at the end of the exit ramp, collided with and overrode a concrete bridge rail, and fell 30 feet to the highway below. Seven occupants were killed. That investigation continues. Because some of the occupants were ejected or partially ejected from the vehicle, safety issues in the investigation will likely include topics such as improved occupant protection, window glazing, emergency exit design, and stronger motorcoach roofs. All these topics have been addressed in prior safety recommendations to the National Highway Traffic Safety Administration (NHTSA).

Additionally, on September 23, 2005, a fire engulfed a motorcoach being operated by Global Limo Inc. The bus was carrying 44 residents and staff from an assisted-living facility in Bellaire, Texas away from the predicted path of Hurricane Rita

near Houston, Texas, many of which were not ambulatory. Twenty-three elderly passengers were unable to escape the fire and died.

Our investigation revealed that Global Limo Inc. was in violation of several safety regulations before the accident. For example, the company did not ensure that their drivers were properly licensed to drive motorcoaches and also did not retain vehicle maintenance and repair records as required by Federal Motor Carrier Safety Regulations (FMCSRs). In addition, there was no maintenance program to properly service the vehicle. The lack of such a program directly contributed to this catastrophic fire and loss of life.

Also contributing to the accident was the Federal Motor Carrier Safety Administration's (FMCSA) ineffective compliance review system, which provided inadequate safety oversight of this passenger motor carrier. The Board concluded that FMCSA's current process does not effectively identify unsafe motor carriers and prevent them from operating. In fact, despite many driver and vehicle safety violations, FMCSA had rated Global as "satisfactory" prior to the accident. The Board reiterated its long-standing recommendation to FMCSA to change the safety fitness rating methodology so that either adverse vehicle or driver performance problems alone are sufficient to result in an overall unsatisfactory rating for a carrier.

As a result of its investigation, the Board made a number of recommendations to the NHTSA to develop a fire protection standard for motorcoach fuel systems, and develop fire detection systems to monitor the temperature of wheel well compartments. We also asked FMCSA to continue to gather and evaluate information on the causes, frequency and severity of bus and motorcoach fires, and conduct ongoing analysis of that data. Finally, the Safety Board asked NHTSA to evaluate motorcoach emergency evacuation designs by conducting simulation studies and evacuation drills.

In another recently completed accident investigation, the Board focused on cell phone use by bus drivers. On the morning of November 14, 2004, a motorcoach was traveling on the George Washington Memorial Parkway in Alexandria, Virginia, as it approached an overpass. The bus driver passed low clearance warning signs, and did not move to a lane with adequate clearance. The bus struck the underside of the bridge. The bus driver was talking on a hands-free cellular telephone at the time of the accident. Of the 27 passengers, 10 received minor injuries and 1 sustained serious injuries.

The Safety Board believes that, except in emergencies, operators of commercial passenger-carrying vehicles and school busses should be prohibited from using cellular telephones while transporting passengers, and has called upon FMCSA to publish regulations to that effect. The Safety Board has also made significant progress in the States on child booster seats, primary seat belt laws, teen driving and hard-core drinking and driving.

The Safety Board recently testified before the House Committee on Transportation and Infrastructure regarding the reauthorization of the Federal Railroad Administration (FRA). Among the issues the Board has been particularly concerned about is human fatigue, which has been identified as a safety issue in many railroad accidents over the years, including the June 28, 2004, accident in Macdonia, Texas. That accident resulted in the deaths of three people from chlorine gas inhalation. Many accident investigations have identified human performance failures related to fatigue, medical conditions such as sleep apnea, the use of cell phones, the use of after-arrival track warrants in dark territory, loss of situational awareness, and improperly positioned switches as causal to railroad accidents. Human fatigue was on the Safety Board's Most Wanted List of Safety Recommendations but removed when the FRA stated it did not have the statutory authority to regulate hours of service. The Safety Board has testified before Congress that the FRA should be given the statutory authority to regulate these hours of service. We understand the FRA is seeking such authority.

There are technological solutions that have the potential to reduce the number of serious train accidents by providing redundant systems to protect against human performance failures. One of these technologies is positive train control (PTC). The implementation of PTC systems has been on the Board's Most Wanted list for 17 years. Its objective is to prevent train collisions and over-speed accidents by requiring automatic control systems to override mistakes by human operators. While there has been some progress by some railroads, we note that PTC systems are needed on railroad systems across the entire United States.

As in other transportation modes, hours of service regulations are also a safety issue for marine. The Board called upon the U.S. Coast Guard (Coast Guard) to establish scientifically based hours of service regulations for maritime workers. The Coast Guard has sponsored research in fatigue and developed its Crew Endurance Management (CEM) system based on its research. The CEM system helps manage

the risk factors that can lead to human error and performance degradation in maritime work environments.

Additionally, the Coast Guard and Maritime Transportation Act of 2004 allows the Coast Guard to set maximum hours of service for towing vessel operators based on the results of a demonstration project using the CEM system on towing vessels. The demonstration project was completed in 2005, and a report of the results was submitted to Congress a year ago. The report revealed promising results in terms of reducing fatigue-related risks. In addition, a Commandant Instruction issued in March of last year states that "Commanding officers and officers-in-charge shall . . . implement a CEM program to manage endurance risk at their unit." The Safety Board would like to see the Coast Guard take the remaining action on this recommendation by issuing formal fatigue management regulations for all domestic operators.

Finally, I would like to address several important aviation safety issues, including runway incursions, fuel tank flammability, icing and flight recorders.

In March 1977, in what remains the world's deadliest aviation accident, two passenger jumbo jets collided on a runway at Tenerife, Canary Islands. That accident resulted in the deaths of 583 passengers and crew. The deadliest U.S. runway incursion accident was a collision between a USAir 737 and a Skywest Metroliner commuter airplane at Los Angeles International Airport in February 1991, killing 34.

Most recently, in July 2006, at O'Hare International Airport, a United 737 passenger jet and an Atlas Air 747 cargo airplane nearly collided. The 747 had been cleared to land and was taxiing on the runway towards the cargo area when the 737 was cleared to take off on the intersecting runway, over the 747. The pilot of the United 737 passenger jet took evasive action by lifting off early. A collision was avoided by less than 200 feet.

A total of 21 runway incursion recommendations have been on our Most Wanted List of Safety Recommendations; only one recommendation remains open. That recommendation urges the FAA to "require, at all airports with scheduled passenger service, a ground movement safety system that will prevent runway incursions; the system should provide a direct warning capability to flight crews. In addition, demonstrate through computer simulations or other means that the system will, in fact, prevent incursions."

The FAA has taken action to inform pilots and controllers of potential runway incursions, improve airport markings, and install the Airport Movement Area Safety System (AMASS) and Airport Surface Detection Equipment Model X (ASDE-X). These systems are an improvement, but are not sufficient as currently designed to prevent all runway incursions.

The runway incursion rate in the United States has not appreciably changed over the past 4 years, and stands at about 5.2 runway incursions per 1,000,000 tower operations, despite these improvements. The issue is one of reaction time. Safety Board investigations have found that AMASS is not adequate to prevent serious runway collisions, because too much time is lost routing valuable information through air traffic control. In recent incidents, AMASS did not alert controllers in time to be effective, and the situations were instead resolved by flight crew actions that sometimes bordered on heroics, or luck.

On Tuesday, March 27th, the Safety Board held a public forum on runway incursions. Thirty years after the terrible accident in Tenerife, runway incursions remain a major safety issue in aviation.

Since 1989, aircraft fuel tank explosions have resulted in 346 fatalities. On July 17, 1996, Trans World Airlines, Inc. (TWA) flight 800, a Boeing 747-131, crashed in the Atlantic Ocean near East Moriches, New York. All 230 people on board were killed. The Safety Board found that the cause of the accident was an explosion of the center wing fuel tank, resulting from ignition of the flammable fuel/air mixture inside the tank. The source of ignition for the explosion could not be determined with certainty; however, the source was most likely a short circuit of electrical wiring associated with the fuel quantity indication system.

The investigation of the TWA flight 800 accident and assistance on 2 fuel tank explosions overseas found that a fuel tank design and certification philosophy that relies solely on the elimination of every ignition source, while accepting the existence of fuel tank flammability, is fundamentally flawed because experience has demonstrated that it is impossible to eliminate all potential ignition sources. Further, the risk of explosion exists for all fuel tanks, not just center or fuselage fuel tanks. The Safety Board believes that operating transport-category airplanes with flammable fuel/air vapors in fuel tanks presents an avoidable risk of explosion. Our recommendation asks the FAA to give significant consideration "to the development of airplane design modifications, such as nitrogen-inerting systems and the addition of insulation between heat-generating equipment and fuel tanks. Appropriate modi-

fications should apply to newly certificated airplanes and, where feasible, to existing airplanes.” In 2002, the FAA developed a prototype inerting system that could be retrofitted into existing airplanes.

The comment period on the FAA’s notice of proposed rulemaking (NPRM) for the flammability reduction installation is now closed and the Board is awaiting a final rule.

Another issue concerns the safety of aircraft operating in icing conditions. Aircraft icing issues have been on the Safety Board’s Most Wanted List since 1997. The recommendations to the FAA include the need to expand the icing certification envelope to include freezing drizzle/freezing rain and mixed water/ice crystal conditions, as necessary; revise regulations to ensure that airplanes are properly tested for all conditions in which they are authorized to operate, or are otherwise shown to be capable of safe flight into such conditions; conduct additional research with the National Air and Space Administration (NASA) to identify realistic acceptable ice accumulations; and ensure turbopropeller-driven airplanes meet the requirements of the revised icing certification standards.

Aircraft icing is a threat to both general and commercial aviation pilots. As recently as January 2, 2006, an American Eagle Saab-Scania SF340 encountered icing conditions during the en route climb after departure from San Luis Obispo, California. The airplane departed controlled flight at an altitude of about 11,500 feet mean sea level and the flight crew recovered control of the airplane at about 6,500 feet. There were no injuries to the 29 persons on board and the airplane did not sustain any damage. The airplane rolled to 86° left wing down and then 140° right wing down. The loss of control lasted about 50 seconds, and the airplane lost 4,000 feet.

A final issue affecting aviation safety is that of flight recorders. The Safety Board has investigated numerous accidents in which turbine-powered aircraft did not have either a cockpit voice recorder (CVR) or a flight data recorder (FDR) at the time of the accident. One such investigation involved a crash in Minnesota that killed 8 people including Senator Paul Wellstone.

The Safety Board has investigated several events in which the aircraft was not required to be equipped with a flight recorder, but a CVR was installed voluntarily on the aircraft. Data from these CVRs has provided invaluable information during its investigations. Specifically, in the initial phase of an investigation, CVR data may reveal operational issues that are not readily apparent from the physical evidence found at an accident site, enabling the Safety Board to narrow the focus of its investigation and issue safety recommendations quickly to prevent similar accidents. In some instances, CVR data may be the sole source of evidence for a probable cause determination.

Considering the number of accidents occurring in smaller aircraft, the Safety Board has identified the need to install crash-protected recording devices on all turbine-powered aircraft. Despite the clear advantages of requiring both a CVR and an FDR on smaller aircraft, the Board recognizes the economic impact and consequently has proposed that all smaller turbine-powered aircraft be equipped with a single crash-protected recorder—a video image recorder—which is less expensive than two recorders. Such recorders obtain not only audio information like that from CVRs, and event data like that from FDRs, but also information about the environment outside the cockpit window.

NTSB APPROPRIATIONS

Mr. Chairman, ranking member, and members of the committee, I have been talking about the safety of our Nation’s transportation system. As I said, it is for the most part a safe and effective system. There are improvements that can be and should be made, but the American people already have every right to feel confident in our transportation system.

One of the reasons for this confidence is a small but very effective independent board that was created 40 years ago this month by the U.S. Congress. The Congress believed that a healthy, vital transportation system was important to the American people and to all aspects of its economic system.

This board is now recognized as a leader in accident investigation and transportation safety, both here and around the world. The NTSB has been asked to assist on hundreds of foreign accident investigations and has been the model for similar agencies in several other countries as they improve the oversight and safety of their transportation systems.

I think that you can tell I am very proud to serve as the Chairman of the National Transportation Safety Board. I am proud of the work that we do; I am proud of what the Board has accomplished, and I am also very proud to work with the

dedicated men and women of the agency. I have said this before, and I will say it again, "They are the best of the best."

During the last two years, my colleagues and I have made a number of improvements at the Safety Board. We have energized and involved the management team that now leads the Board's strong pool of technical professionals. Recently, with input from all ranks, that team produced a new Strategic Plan for the agency. Each executive now has a performance plan that is linked to our Strategic Plan. The last two years have brought significant improvements to the Safety Board, and we want to continue that positive momentum, but we will need your help and your support to do so.

This agency has measurably improved its efficiency and throughput during the last two years. In fiscal year 2005, the Members of the Safety Board received 120 voting items from the staff. In fiscal year 2006, my colleagues and I received 168 such items (an increase of 40 percent), and the staff has presented almost 100 voting items so far in the first half of fiscal year 2007. In fiscal year 2005, the Board considered 12 accident reports and studies and we issued 120 safety recommendations. In fiscal year 2006, we considered 21 accident reports and studies, and we issued 167 recommendations. So far this fiscal year, we have considered 12 accident reports and we have issued over 70 safety recommendations. What's more, since the beginning of fiscal year 2005, the Board has held 9 public hearings, forums, and symposiums on such topics as runway incursions, motorcycle safety, and positive train control.

Better management has made our agency more efficient during a time of declining resources. The number of products we produce has increased, but our staff is now working at full capacity. Of course, this is a good thing, but there is a troubling side to this. With an investigative staff stretched as it is, we will not be well positioned to conduct multiple, simultaneous complex investigations.

Our staffing numbers have been declining over the last five fiscal years. In fiscal year 2005, the Safety Board received an appropriation of just over \$76 million, which enabled us to fund 418 FTEs. In fiscal year 2006, after rescission, the Board's appropriation was less than the year before. That year, in order to absorb the increased cost of pay raises, benefits and other costs, we were forced to allow attrition to shrink our ranks to 387 FTEs, a reduction of 31 positions.

To help us better manage this drop, we created a human capital plan. This plan allowed us to focus on hiring investigators to fill our most critical needs. The Safety Board has carefully managed its resources, and—like many agencies—has done more with less, but there is a point where we will simply stretch staff too thin.

This year, the Safety Board received an appropriation of \$79.3 million under a continuing resolution. This represents a \$3.3 million increase over the prior year, and I assure you we are very grateful to this subcommittee for providing us such an increase because we entered the year in a critical condition. Although this funding level will not permit us to grow beyond 396 FTEs this fiscal year, it will permit us to hold steady through the year.

About 90 percent of the Board's annual budget is spent on salaries, benefits and fixed expenses such as rent and telecommunications. That leaves the remaining 10 percent available for mission related activities, travel, training, equipment and information technology. Each year, due to pay raises and inflation, the cost of agency salaries and fixed expenses grows by more than \$3 million, regardless of our appropriation level.

The President's budget requests \$83 million for the Safety Board for fiscal year 2008. However, our best estimates indicate that our salaries and fixed costs will grow by a little over \$3.6 million in fiscal year 2008. Consequently, \$83 million will enable us to fund those increases, but we will need to hold staffing at the current level for yet another year under such a budget.

Most people believe that the Safety Board is much larger than it actually is. They think that 1,000 or 2,000 people would be necessary to do all of the work that we do. So, they are shocked when they learn the Board has fewer than 400 people—but 400 very dedicated people. Although these people are willing to work very long hours at accidents and keep their skills current, there is only so much they can do.

As I said earlier, most of our funding is used to pay personnel, and what we need now is personnel. The Board needs people with particular and special skills to keep up with the new technologies that are constantly changing and developing. For example, until fairly recently, all planes were made of aluminum. Now, new airliners are made with composite materials, the failure of which requires different testing methods and investigative procedures. The Safety Board needs additional investigators to handle the possibility of increased accidents after the introduction of a projected large number of very light jets (VLJ) that are expected to enter the service over the next few years. The introduction of VLJs into the national airspace system

may require a significant use of investigative resources. Although small, the VLJs and their operation are complex and will require essentially a full team of investigators to address issues that may arise in composites, turbine engines, single pilot operations, Part 135 operations, FAA oversight and air traffic control. Special attention is also given to new types of aircraft as they enter the commercial fleet. Further, we have been without a senior fire and explosion investigator for over 4 years, leaving us extremely vulnerable to inadequate coverage in any fire related investigation. Additionally, we cover the entire country with only one fully staffed railroad Go-Team.

The Safety Board is a unique agency, and many of our investigators are highly specialized. They are not interchangeable. Someone who is trained in aircraft jet engines does not have the skills required to investigate the operation of railroad signals. Not only must we hire specialists with expert-level skills, new specialists must work with the Board for some time to fully understand the complexities of our accident investigations. When we are not able to hire, we lose that educational process that is so very important to new investigators. With approximately one-third of our staff eligible to retire within the next five years, it is essential that we take the proper steps now to replace these highly skilled, technical and experienced professionals.

In closing, I want to assure the members of this subcommittee that my fellow board members and I are most appreciative of your support this fiscal year and in prior years. As you begin to make appropriations decisions for the coming year, we hope you will keep in mind the importance of this small and effective agency to the safety of our Nation's transportation system.

I would be delighted to respond to any questions you may have.

Senator MURRAY. Mr. Hill, in my opening statement, you heard me talk about the tragic accident that took the life of one man and injured two others on the Capitol Beltway last month.

Your agency uses compliance reviews in order to keep unsafe trucks and unsafe truckers off of our Nation's highways. Back in February, you did a compliance review of BK Trucking because they were on your watch list for far too many accidents. The review that occurred at that time found almost no problems, resulted in no fines or penalties. And then after that fatal accident, your people went back and found the carrier using a driver with a suspended CDL, failures to maintain State record checks, falsified log books, multiple failures to keep driver vehicle safety records.

As I asked in my opening statement, are we to believe that all of those violations occurred in 1 month?

Mr. HILL. Madam Chairman, thank you for that question. I am aware of the issue. I have been briefed on it, and I do have some response to it.

I think the first thing I would say to you is that there has been considerable criticism about the SafeStat system in recent years, as you are probably aware. And I think in this case, we indicated that the SafeStat system did identify this carrier as being a problem. It was primarily because of high crash incidents that we found that we went in to examine the carrier initially.

The second thing is that the CDL system is supposed to be recording driver convictions and problems and taking action. So the CDL system also has its part.

The piece that I am very concerned about and share with your frustration is that when we went into the carrier's business on February 25, basically the owner of the company told us that he had 8 drivers, and there were really 23, he withheld that information from us. And so the driver who was involved in the fatal crash was an owner/operator who was really under the employ of this carrier and should have been counted as a part of the driver's ongoing ac-

tivities. Unfortunately, he withheld that information from our investigator.

He showed us lease agreements that our investigator looked at but did not properly identify, that these were, in fact, under the employ of the carrier. And so we have to take an internal look at what we are doing with these safety investigators and finding these owner/operators. And that is a deficiency that I am prepared to address. I am going to be on a conference call tomorrow with all of our field staff and leadership and we are going to address this issue.

What really should have happened is that the driver should have notified his carrier. His carrier should have then stopped him from driving. That did not take place. In fact, the owner of the company told us that in the second review we did in April that he withheld intentionally this information from us.

Senator MURRAY. Well, in both documents that you supplied to my office, as well as to what you just said, you are saying that the owner of BK Trucking lied to your investigators, basically. Your investigators asked for records on 15 drivers since your agency's database said that they worked for BK Trucking, and the owner told your investigator that the database was in error, and the drivers did not formally work for BK Trucking. And that was the end of the conversation.

I have to ask: When trucking companies that are on your watch list tell your investigators their data is wrong, do your investigators just take their word for it?

Mr. HILL. In this case, the investigator looked at the lease agreements. They wanted to see independent verification. Lease agreements are fairly detailed documents. And the investigator read through them and did not see the kind of requirements that should have been found in the investigation. Yes, that is a deficiency in our process, but I would not blame it on the compliance review, a CR process. I think it was an issue that we need to address in this particular investigation.

Senator MURRAY. Do you know why there was not a further investigation since this company was on your watch list and records were different according to your records and their records, why it was not investigated further? It appears that your investigators just accepted the owner's words on this.

Mr. HILL. Our investigator looked at the lease agreements and did not believe that the owner/operators were, in fact, under the carrier's responsibility, and that was an erroneous assumption. They should have investigated it further or asked for further assistance. We are going to address that issue.

Senator MURRAY. And then they did not. They did not investigate it any further after that?

Mr. HILL. No, not until April after we went in the second time.

Senator MURRAY. After the accident.

Mr. HILL. That is correct.

Senator MURRAY. Roger Scofield was the BK truck driver that was involved in that crash. Was he one of the drivers for whom your investigator at the first compliance review was seeking information?

Mr. HILL. I do not know whether his name was one of them, but he was certainly a part of that 15 drivers that you referenced in your question to me. He was a part of that 15 owner/operators that was not provided to us on the February compliance review that you indicated.

Senator MURRAY. Well, it just—he had so many traffic violations and suspensions, how did that escape the attention of your inspectors?

Mr. HILL. Well, we were aware of numerous inspections being attributed to certain drivers, but we have to make sure that the driver works for the carrier in question. And I am telling you that we were not able to make that connection due to the lease agreements that we looked at.

Senator MURRAY. And no red flags went off for anybody?

Mr. HILL. Yes. That is why the investigator brought it up to them, because the red flags were there because of these numerous inspections.

Senator MURRAY. So what happened when you went in, red flags and then nothing, and then there is a fatal accident?

Mr. HILL. Well, what I am explaining to you is that the safety investigator tried to make the determination that these particular drivers worked for this—

Senator MURRAY. Was that an ongoing process that was occurring when the fatal accident occurred, or was that—

Mr. HILL. I do not know the answer to that. I will have to find out and get back to you.

Senator MURRAY. Okay. I would like to know the answer to that.

Mr. HILL. Okay. Sure.

Senator MURRAY. Mr. Rosenker, your agency issued recommendations saying that the compliance review system had to be dramatically improved because it was not being successful in identifying and taking these unsafe drivers and their companies off the road. But those recommendations were made back in February 1999. That was more than 7 years ago. And they have been on your most wanted list since the year 2000, and you have categorized the FMCSA's response as unsuccessful.

Based on your agency's findings, is this case with the BK Trucking more than—the exception or more the rule?

Mr. ROSENKER. I am hesitant to say it is more the rule, but I will tell you that this is not an accident that we chose to investigate so I do not have all of the facts.

Senator MURRAY. Okay.

Mr. ROSENKER. In fact, I would have to have the facts in order to be able to give you a good answer on what really happened there and does that represent what we see in other accidents.

Senator MURRAY. Well, let me ask you: Do you believe that the FMCSA's inspectors are too dependent on information provided by the trucking companies themselves?

Mr. ROSENKER. Yes, I do believe that.

Senator MURRAY. Well, can you share with this subcommittee what immediate improvements you want to see to the compliance review and enforcement systems?

Mr. ROSENKER. This is a very challenging issue, given the numbers of people that are at FMCSA that do this kind of work. It is

extremely difficult to find all of the bad actors that are on the roads today. There needs to be, perhaps, a total overhaul of the system so that we can do a better job of beginning to understand where the bad actors are and how we can enforce the action to get them off the road.

Senator MURRAY. All right.

Mr. ROSENKER. This is, unfortunately, a very, very large problem that has to be dealt with.

Senator MURRAY. So you would say that the BK Trucking accident is just symbolic of a larger problem, I assume?

Mr. ROSENKER. Exactly.

Senator MURRAY. Okay. Thank you.

Senator Bond.

Senator BOND. Thank you, Madam Chair.

Chairman Rosenker, I gather you—I did not catch the exact number, but 460 motorcycle deaths, was it somewhere in that range—

Mr. ROSENKER. For which accidents are you talking about regarding fatalities?

Senator BOND. On motorcycles, motorcycle deaths, yes.

Mr. ROSENKER. Approximately 4,500. I will give you the exact figure.

Senator BOND. 4,500?

Mr. ROSENKER. Yes sir.

Senator BOND. Okay. 4,500 deaths in 1 year on—for motorcyclists without helmets. Do you have figures on how many severe brain injuries with permanent impairment occurred in addition to that 4,500?

Mr. ROSENKER. Now, Senator Bond, I would not suggest that every single one of the 4,553 that died on a motorcycle were not wearing helmets. Many may have been wearing helmets and died from other injuries.

Senator BOND. I see.

Mr. ROSENKER. So as far as the numbers that deal with paralyzing injuries or brain-damaged injuries, I could get that number. I do not have that handy.

Senator BOND. If it is readily available, I would be very interested in that.

Mr. ROSENKER. Yes, sir.

Senator BOND. I also understand that insurance companies, used to or formerly made a strong push in State legislatures for helmet laws, but do I understand that has slacked off recently? Is there less activity for that?

Mr. ROSENKER. I could tell you that I began in this safety community back in the seventies when we had safety helmet use laws. And there were significantly more States that had them at that time than they do today. And there are a number of reasons why they do not require safety helmets. But, in fact, we have seen an increase because of, one, an increased ridership; and, two, issues of safety helmet use.

Senator BOND. About some 115 percent increase, something like that.

Mr. ROSENKER. A significant increase, yes, sir.

Senator BOND. All right. Administrator Nason, you stated very clearly in your testimony the safety penalty that came from raising the CAFE standards beyond that achievable by technology, anywhere from 1,300 to 2,600 in 1 year. If Congress were to pass a CAFE bill this year with a mandated increase in CAFE standards beyond available technology, could I assume then that we should expect a similar safety penalty, that is, a rise in fatalities?

Ms. NASON. Yes, Senator. Thank you. We are very concerned about the safety penalty with a straight increase in CAFE. We would anticipate that there would be an exacerbation of the problem.

The penalty is because—and I note that it is not our term; it is the National Academy of Science's term and we are just borrowing it—occurs generally because the least expensive way to meet CAFE is to produce many more smaller, lighter vehicles which, unfortunately, crashing into the larger, bigger vehicles is exacerbating the problem we already have of the difficulties between the two, so—

Senator BOND. Madam Administrator, the last time I checked on it, I found that—I believe I was told that somewhere between 40 and 60 percent of those fatalities occurred not in collisions with other larger vehicles, but were single-car crashes. So the—it is not just that they are smaller than other vehicles on the road. They are more dangerous when they go off the road, hit a pole, or flip over. Is that fair?

Ms. NASON. That is true. We are worried about both compatibility and single vehicle crashes, particularly rollovers.

Senator BOND. One of the things I was interested in—and I am a little bit confused—but under section 406, the States can spend all but \$1 million on highway construction programs. In the section 148 of the Highway Safety Improvement Program, States can flex 10 percent into safety programs, including behavioral, that is, "Use your seatbelts."

But I am told that from the States, that even though they could use this—these flex funds for safety belt enforcement, they are using—most of them are using these funds for additional highway construction, rather than improving the use of safety belts. What is your finding in that area?

Ms. NASON. Well, it certainly depends on the State.

Senator BOND. But how often is that being—

Ms. NASON. For the 406 grants, we found the vast majority of the funding that the States are getting actually is being used for behavioral programs. It is close to 70 percent of the funding. That is their choice. We are very pleased to see that, but—

Senator BOND. Yes. Under 148 they are apparently not using it.

Ms. NASON. Right.

Senator BOND. Do you have any comments on that, Chairman Rosenker?

Mr. ROSENKER. As far as the use of safety belts?

Senator BOND. Yes.

Mr. ROSENKER. We have seen compliance up to 82 percent. It is the Board's position that all States should have primary safety belt use laws. When I began back—I keep talking about three decades ago—it almost sounds like I am back during the Model T days—but unfortunately—

Senator BOND. I started even before then, so do not tell me about Model T days. I was there with the horse and buggy.

Mr. ROSENKER. I was part of the original group that began the safety belt use law advocacy program. And I can tell you that when we started to talk about that concept, back in the mid-seventies, people thought in terms that we were invading their castle. Their car, itself, was their own domain, and they had their own decision-making capability. Back during that period, 55,000 Americans were dying on our highways.

Tremendous progress has been made. The combination of safety belt use laws, the combination of new systems with airbags, the combination of, in fact, much better automobiles that we are operating today have brought that number down. But I really believe, sir, if we can get to 50 States that require the use of the safety belt, we can bring that number down substantially.

Senator BOND. Thank you, Mr. Chairman.

Madam Chair?

Senator MURRAY. Mr. Hill, I am going to return to you. I understand that you are working on a new program called CSA 2010—

Mr. HILL. Yes, ma'am.

Senator MURRAY [continuing]. That is supposed to address some of the NTSB's concerns and criticisms. But I also understand that the soonest that you are going to be able to fully deploy this system is in 2010, and that is 11 years after the NTSB first issued their recommendations.

I wanted to ask you: Why does it take your agency 11 years to respond to this urgent—what I see as really urgent safety—these urgent safety recommendations?

Mr. HILL. Well, Madam Chairman, I joined the agency in 2003. And when I came, I was greeted with a package of information, something called the Compliance Review Work Group. This was basically a study that began as a result of the 1999 recommendation and had been somewhat inactive. And so my predecessor and I revitalized that group and tried to figure out exactly what we need to do to come into compliance with the NTSB recommendations.

Since that time, we looked at the report from that earlier study group that had completed the Compliance Review Work Group analysis, and we just felt like that we needed to look at the compliance review differently. We needed to have a bigger experience, a bigger footprint with the motor carrier industry. We did not see the compliance review in its current format achieving that, so we felt it needed to be changed significantly.

Whenever you develop a national program affecting 700,000, potentially, motor carriers, it involves significant outreach. We have been having public listening sessions to make sure that we are communicating with the public, and how this will affect them.

We also have been trying to work with our State partners who do the majority of the motor carrier safety assistance program work through the grants. And we have included them in our work groups.

And then the next big piece is that we are going to do a demonstration of this. We are going to practice this—

Senator MURRAY. What timing is this, do you think?

Mr. HILL. Next year. Next year, 2008, fiscal year 2008.

Senator MURRAY. Okay. Well, what are you doing right now to ensure that unsafe drivers and vehicles are removed? You are waiting for studies and reviews and all kinds of things. Is there anything you are currently doing to try—

Mr. HILL. We—

Senator MURRAY [continuing]. And remove unsafe drivers?

Mr. HILL. We are initiating rulemakings to implement this Comprehensive Safety Analysis 2010. Right now, we are developing the regulatory text and background material for that. And, second, we are going to—we have already identified four States that we plan to use this CSA 2010 approach in next year.

Senator MURRAY. Next year?

Mr. HILL. Yes, ma'am.

Senator MURRAY. Okay. Well, let me broaden this a little bit. During this subcommittee's hearing on cross-border trucking with Mexico, I mentioned that we need to focus on the safety of all trucks, not just Mexican trucks. And the administration has argued that we need not worry about the safety of Mexican trucks crossing the border because, contrary to what we experienced five years ago, the out-of-service rate for Mexican trucks is now down to between 21 and 23 percent, which they say is about the same as we experience with the United States trucks.

Well, I want to talk for a second about what an out-of-service rate of 21 percent really means. That means that when Federal and State officials inspect trucks and their drivers on the road today, on the roadside, more than one out of every five are in such deficient condition that they are ordered off the road immediately. Can you imagine how we would react if it was found that one out of every five passenger jets was routinely found unfit to fly? You know, I find that really startling.

And, Mr. Hill, I want to ask you, do you consider an out-of-service rate of more than 20 percent to be an acceptable rate for our domestic trucking fleet?

Mr. HILL. No, Madam Chairman, I do not consider that to be the case. I would just say to you that when I came to the agency in 2003, I was concerned about the involvement of our State partners in the compliance review process. At that time we had about 3,700 reviews being done by States and a limited number of States involved in that process. I have really been working to outreach with the States to include more of them.

I used to work in State law enforcement. I am committed to traffic safety. That is all I have done my entire life. And we are now up to 45 percent, nearly 46 percent more compliance reviews being done by States than were being done in 2004. We are making progress. In some cases, States have to change their legislation in order to do compliance reviews but we are making progress.

We have improved the number of roadside inspections to over 3.2 million last year. That is up about 7 percent since 2004.

Senator MURRAY. And of those roadside inspections, the compliance rate is one out of five.

Mr. HILL. That is correct. However, I would just point out to the subcommittee that these inspections typically are targeted inspections. In other words, we have developed information tools to identify the worst carriers coming through, so that when they inspect,

they are typically not inspecting a random sample. They are inspecting the worst carriers coming through because of the indications they have that this particular vehicle needs to be inspected.

Senator MURRAY. Mr. Rosenker, do you think a 21 percent rate is acceptable?

Mr. ROSENKER. We think it is unacceptable. Obviously, we would like to see that number come down. And, frankly, the only way you can get it to come down is by serious enforcement and penalties that, in fact, are commensurate with bad performance.

Short of that, I cannot tell you how to go about doing that, other than additional people involved in the enforcement aspect of this issue.

Senator MURRAY. Is there any other mode of transportation where we accept a 21 percent noncompliance?

Mr. ROSENKER. Not that I know of, Madam Chair.

Senator MURRAY. Well, I just have to say that I am deeply concerned about this, Mr. Hill. I heard your comment that you are targeting trucks, but I—all of us travel on our freeways and highways. We are coming up on the summer season again when families are on the road, and I think it is incumbent upon all of us to ask what we are doing for our part to increase the safety.

And, you know, as long as the firms think that it is going to be a long time before they are inspected or they do not have to, you know, deal with this, their bottom line for their industry makes them further—slide further and further away from where they need to be. And I think this is something that all of us have to really, really focus on.

Senator Bond has gone to another subcommittee hearing, and I think I will have a few more questions here, and I think I will—let us see.

Let me go back to my opening statement where I talked about the recent highway fatality data that was released by DOT that I thought should be pretty disturbing. The number of highway fatalities grew to over 43,400, at a rate of 1.45 fatalities per 100 million vehicle miles. Travel—that figure represents the highest number of fatalities since 1990.

Back in February when Secretary Peters was here, I told her I was really disappointed with that. And rather than taking strong action, it appeared to me that the agency was really weakening its goal to reduce the fatality rate. And she responded by saying, “I have heard you this morning about how important this is. I promise you I will personally go back and redouble our efforts to work on these safety issues.”

Ms. Nason, can you tell me since that hearing in February what changes have been made in your agency that reflect the redoubling of efforts that the Secretary spoke about to our subcommittee?

Ms. NASON. Yes. Thank you, Chairman Murray.

The increase, as you noted, is not just an increase in the number of actual fatalities, but also the increase in the rate. And for an agency whose mission is to save lives and prevent injuries, this is extremely distressing. When we look at the data and see what we have done and where we have not been successful, it requires us to dig a little deeper, which is what we have done, to try to deter-

mine where we have had successes and where we have had failures.

And the place where we know we have had success is passenger occupant vehicle fatalities. The place where we have the most control over the car is the place where we are actually seeing a decrease in fatalities. And we do believe we will get to 1.0 for occupant deaths.

The place where we have not had success is particularly with motorcycles, as you've noted, and also with pedestrians. And Secretary Peters is an avid rider, as you know, and she has also experienced a terrible crash on a motorcycle.

And she has come back to us to say—Senator Bond asked the fatality number for motorcycles, and it's 4,553. It is up from 4,028. So it is, essentially, 500 additional fatalities from the year before. That is very distressing for the agency to see.

One of the things she has done just in the last few weeks after her hearing is call on the motorcycle industry itself to work more closely with the Department and to provide free or substantially reduced cost helmets and training, because we have multiple problems when we look at motorcycle fatalities, which is clearly where we need to see an increase in improvement, where we have seen the increases.

We have alcohol-related fatalities on motorcycles up higher than passenger cars. We have one in four motorcyclists who are not properly licensed. They go out; they buy the bike; they ride it out onto the highway. Nobody checks for an endorsement.

And we are also seeing a great increase in older riders. And by "older riders," I mean people who had bikes in their twenties and got off the bikes for a variety of reasons, had families, bought cars. Now, they have more disposable income. They are getting back on the motorcycles. We have seen a 400-percent increase in fatalities in riders 55 and older.

So what we have done to try to reach our 1.0 goal, as you say, is we have had to push it out a little bit, which we are concerned about—but we wanted to be honest and say we knew we were not going to make it—and to look at where we can try to make improvements. And those are the areas that we are specifically targeting to try to hit 1.0 in the years to come.

Senator MURRAY. Do you think just the price of a helmet is keeping people from buying one when they buy an expensive bike?

Ms. NASON. Well, some of the helmets are actually very expensive. They are several hundred dollars. So it is one issue.

The other thing she has said, though—and we have heard this even from the rider community—is rider training. I have taken the rider training course, for example. We had a separate course done for some of us at DOT. It is very difficult to get into some of these courses, particularly during the summer when people go out and buy a motorcycle.

And a lot of States just do not have the availability for rider training; or they have it, but it is really pricey. And a lot of the motorcyclists think, "I do not need to spend \$800 to go learn how to ride my bike. It is just like getting back on a bike. I have done it before. I can do it again. I do not need it."

So part of her call is not just helmets, which are important, but also rider training, which is an area where we think we need to focus a lot more time and energy.

Senator MURRAY. Mr. Rosenker, I see you nodding.

Mr. ROSENKER. I would agree. In fact, many, many years ago, I also was with the Motorcycle Safety Foundation, and we began the serious curriculum development to teach teachers how to ride and teach the program.

I would also add that perhaps it is beyond the regulatory issue. I would encourage the manufacturers of automobiles and motor vehicles to begin the process of looking at and installing technologies which, in fact, can help us prevent the accident.

Electronic stability control was in a number of vehicles long before the NHTSA chose to regulate it into existence as standard equipment. So I want to applaud the manufacturers that are beginning to look at these things, but I would also encourage them to go even further, not wait for regulations.

Safety sells. I really believe that, and I think the marketplace proves that. Many, many, many cars have new technologies which, in fact, are extremely valuable in helping to prevent accidents.

So we can encourage the manufacturers. And maybe it is time to look at other measures which may be tax credits. We look at that for cars that deal in fuel efficiencies. Why do we not do so toward policies that may encourage us to buy safer automobiles and get that same type of credit?

In the long term, the insurance companies will pay out less. Our medical bills will be significantly lower and, in fact, we will begin to drop those accident numbers down from 7 million accidents, 3 million injuries, and 43,000 fatalities. Technologies are out there, and if we seriously begin to develop and implement them, we can begin to drop those numbers significantly.

Senator MURRAY. Thank you very much for that.

Senator Bond and I both mentioned the accident involving our former colleague, now Governor Corzine. And I hope that really serves as a wake-up call to all of us about the importance of wearing seatbelts.

NHTSA's own data suggests that over 5,000 additional lives could have been saved in 2005 alone if all motor vehicle occupants had been wearing their seatbelts.

In my home State of Washington, we have a primary seatbelt law, and it has drastically improved seatbelt use, which increased by almost 14 percent since we enacted that back in 2002. But I—you know, I see that only half the States now have primary seatbelt laws.

I see, Mr. Rosenker, that the enactment of primary seatbelt laws is on the NTSB's most wanted list, requiring action by States. Tell us what you think about the pace at which States have been adopting these laws.

Mr. ROSENKER. I believe it is too slow. We have seen proof positive of the value of a safety belt along with an air bag. The system itself helps to significantly reduce fatalities and the number of serious injuries that we had seen years and years ago before these systems were developed.

So people that do not use these technologies, people that are driving without their belt are really being extremely foolish. We have seen what happened with Governor Corzine. I believe when he goes back to the Governor's mansion and begins to carry out the duties of the Governor of New Jersey, he will become a very, very strong advocate for the use of safety belts. And I will be, hopefully, calling him to enlist his support.

Senator MURRAY. Very good. All right. We have heard a little discussion about the electronic stability controls. Mr. Rosenker, you talked about that.

Ms. Nason, your agency announced that it is going to be mandating some of these new safety technologies, is that correct?

Ms. NASON. Yes.

Senator MURRAY. I understand that you are giving manufacturers until 2012 to enact that. Why such a lengthy amount of time if clearly this is something that is going to save lives?

Ms. NASON. We had originally proposed a 30 percent, 60 percent, 90 percent, and then 100 percent implementation rate. And the 100 percent would be every vehicle on the road, a Malibu to a Lamborghini. And after we looked at the technology, we looked at the studies that have been done around the world, not just by NHTSA. We looked at the NTSB's recommendations.

When we came out with a final rule, we upped the implementation rate significantly. It is, we believe, very aggressive. So instead of 30, 60, 90, we have gone to 55, 75, 95. And then—

Senator MURRAY. Even though it is 46 percent today who already have it as either standard or optional equipment, so moving to 50 does not seem like a huge hurdle.

Ms. NASON. Right. It is 46 standard or optional, as you say. I think we thought it was about 40 for the new vehicles this year standard. And so even, we thought, getting to 55 was still going to be a challenge.

There were some vehicles that we believe were never going to get there. In other words, we never thought there was going to be 100 percent implementation, if we did not mandate it. So from 40 to 55 percent and then up to 75 the following year, we knew was going to be a challenge for the manufacturers.

But because this life-saving technology is so important, and it is not—we are seeing it on SUVs, for example, and we are seeing it on high-end vehicles, but I believe there was one minivan that we saw that had the technology offered. And that is a place, obviously, where people are putting their children.

Senator MURRAY. Yes.

Ms. NASON. It is—that was what concerned us. We were not seeing it in the small vehicles, and we were not seeing it in all the family-type cars that we needed it in, which is why we upped the implementation.

And we do think that we were being fairly aggressive. We know there are some manufacturers who will have some challenges meeting it, but we thought it was important enough that we push harder than we originally proposed.

Senator MURRAY. Mr. Hill, you mentioned in your testimony that this technology can be especially effective for trucks, keep them from flipping. Why are you not mandating this for trucks?

Mr. HILL. Madam Chairman, I would just say a couple of things about that. First of all, we are actively in the process of researching to make sure that we understand what is going on and trying to collect data to understand the cost benefit analysis that would be required for any kind of a rulemaking effort. Then we are working closely with NHTSA. This is something that we are planning to do with them in terms of our large truck research program.

And one of the things that we are moving forward on in technology enhancement is improving the braking distance of trucks. Thirty percent greater braking capacity is what we are putting out in terms of rule with NHTSA, to try to look at improving the braking distance of trucks.

As far as the rollover stability, what I have been doing is talking about it with State partners and the industry to encourage adoption of these technologies.

Senator MURRAY. Are we seeing that anywhere in States?

Mr. HILL. We are. There are several States. Not so much as far as a legislative fix, but in terms of industry, we are seeing several thousands of these units. I am talking in the order of anywhere from 20,000 to 40,000 of these units being deployed, depending on the kind of technology.

Senator MURRAY. It seems to me this is one area where a Federal mandate will make a difference—I see Mr. Rosenker nodding—because States will just say, “Well, these trucks travel across our borders,” and it will be the, you know, argument that, you know, “We can’t mandate because they go from Idaho to Washington in an hour.” So would not a Federal mandate on this move this much quicker?

Mr. HILL. Well, a Federal mandate would certainly put it on everyone’s radar screen much more quickly, but in terms of developing that kind of a rulemaking I am going to have to make sure that we have the right kind of research in place to move forward with it, and—

Senator MURRAY. And you don’t think—

Mr. HILL [continuing]. We are in the process of—

Senator MURRAY [continuing]. The research is available?

Mr. HILL. Well, I do not think—

Senator MURRAY. Mr. Rosenker.

Mr. HILL [continuing]. It is complete yet. I think we are still developing it.

Senator MURRAY. Okay.

Mr. ROSENKER. As it relates to electronic stability control and crash avoidance technology, we have seen demonstrations of it. They seem to work fairly well. As a matter of fact, they even have some technologies which will assist the trailer itself from rolling over. So we are impressed with what we have seen. We would encourage, as I said earlier, the manufacturers to begin to put these kinds of equipment in voluntarily.

Now, I recognize that it does add some costs to it. But as we continue to put more and more of these vehicles out, the economies of scale take over and bring down the cost of electronic stability control to a minimal expense.

Senator MURRAY. Okay. Let me change topics for a minute. Back in 2004, one of my constituents—her name was Maria Federici—

nearly lost her life when she was struck in the head by an unsecured piece of wood that came flying off a truck that she was following on a freeway. That impact was horrendous. She crushed her face, left her blind.

And since this accident occurred, Washington State enacted legislation called Maria's Law to increase the penalties for unsecured loads. That law established an education campaign to help raise awareness about this issue. And I know this is not a problem just exclusive to Washington State, but one that can impact lives all across our country.

The AAA Foundation for Traffic Safety conducted a study on this issue and reported that, nationwide, 25,000 accidents are caused by road debris which kills nearly 100 people every year.

Ms. Nason, are you familiar with this issue or that study?

Ms. NASON. Yes, I am familiar with the issue, Madam Chairman. We keep track for our FARs, for our fatality analyses, of fatalities as a result of falling debris.

Unfortunately, what we find is in some cases, in many cases, the driver continues on, either unaware—

Senator MURRAY. Exactly.

Ms. NASON [continuing]. That the material has fallen or very deliberately trying to leave the scene. So—and in some of those cases, the fatalities are not coded in the exact same way. They are coded as a fleeing—driver struck and fled the scene. So I would have to go back and just check our data to make sure that we have the best numbers. I cannot exactly confirm for you that exact number.

Senator MURRAY. Well, I think all of us have driven down the freeway trying to maneuver out from behind a truck with an unsecured load, and there is a good reason for that. So I would like to have you come back to me and tell me if your agency is looking at any ways on issuing some guidelines on unsecured loads.

I know my State took action on this. And I would encourage you to look at their law, and perhaps some other ways that you can work to help bring up awareness of this issue for everyone involved.

Ms. NASON. Absolutely.

Senator MURRAY. Mr. Hill.

Mr. HILL. Madam Chairman, I would just say to you that we at FMCSA did develop a uniform load securement policy change in the last 2 years and designed it to be harmonious with Canada and for it—to make it an international standard. And it did significantly increase the requirements for load securement. In fact, it created a little bit of consternation. The industry felt like we had gone too far. But we felt load securement was, in fact, a problem. It was a safety problem. It needed to be addressed. So we did enact further penalties. And the Commercial Vehicle Safety Alliance has adopted that as a part of their out-of-service criteria.

Although I do not have the data in front of me, we do put several thousand trucks out of service because of this, and I can provide you with that information.

Senator MURRAY. I appreciate that very much.

Mr. HILL. Yes, ma'am.

Senator MURRAY. One last topic, on electronic onboard recorders—because, Mr. Rosenker, I know that at one time your agency

advocated the use of these onboard recorder devices as a way to give motor carrier safety inspectors a failsafe way to determine whether truckers were violating the hours of service. I think you mentioned this in your testimony. And I think these devices are now being commonly used throughout Europe.

Last year, the DOT inspector general pointed out that hours of service violations account for 30 percent of all acute and critical violations. Does your agency still advocate for use of these devices?

Mr. ROSENKER. Yes, we do. We believe that with the new technology, you will get a significantly more honest picture of what the drivers are doing. We are interested in the hours of service compliance because fatigue, unfortunately, has played too great a role in motor coach and truck accidents that we have investigated.

So we believe by a much tighter method of enforcement, and these electronic devices, in fact, would be right now the way we see it, a failsafe device that would provide significant data to any enforcement agency that wished to pull someone over and take a look at how long they had been operating. We want to make sure that drivers/operators have at least 8 hours of sleep or at least 8 hours of potential sleep during the 10 hours rest after their ability to drive for 11 hours.

Senator MURRAY. Mr. Hill, your agency only requires those for people who are repeat violators.

Mr. HILL. We have put forth a notice for the proposed rule-making that would call for both—that is correct, repeat violators and also provides some incentives, that is correct. And it has just closed on the comment period, I think, yesterday. And we have had 800 comments to the docket so far, so we know this is going to be a very interesting debate. And we are going to move forward with it.

Senator MURRAY. Yes. I understand the arguments on all sides and the privacy issues and people's concerns, but a truck driver who is fatigued does not just impact himself or the trucking company. He impacts all of us as citizens. And so I encourage you to keep moving forward and look forward to hearing what you have to say after that.

Mr. HILL. Yes, Madam Chairman.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. I believe there are no other members who are coming to this subcommittee at this time. I thank all of our witnesses for taking the time to be here.

[The following questions were not asked at the hearing, but were submitted to the Departments for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. NICOLE R. NASON

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

Question. Do you believe that all new school buses should be manufactured with 3-point seat belts to protect our children?

Answer. School bus transportation is the safest form of highway travel. It is far safer than riding in a passenger vehicle, walking, or bicycling. Each year to and from school and school-related activities result in about 450,000 school buses traveling some 4.3 billion miles and transporting 23.5 million children.

NHTSA is considering whether school buses could be made even safer with 3-point seat belts. An important issue in this decision is whether 3-point seat belts would reduce seating capacity and force children to use a less-safe alternative mode of transportation to get to and from school. NHTSA needs to involve State and local officials in this process, since they are most familiar with the school travel in their school districts and the relative risks of each. NHTSA will host a public meeting focused on seat belts on school buses in Washington, DC on July 11, 2007.

Following that public meeting, NHTSA will issue a proposal in early 2008 to improve protection on school buses. This proposal is expected to include higher seat back requirements and other changes to improve the occupant protection system, called "compartmentalization," that has been required in school buses for the last 30 years. The proposal will also include NHTSA's position on seat belts on school buses.

Question. Since the Federal all-rider motorcycle helmet requirement was repealed in 1995, motorcycle fatalities have skyrocketed. How much do these motorcycle crashes cost our society in terms of medical care, legal costs, and lost productivity?

Answer. In 2005, over 4,500 motorcycle riders were killed and roughly 90,000 were injured in motorcycle crashes. Motorcycle fatalities have more than doubled since 1995 as motorcycle registrations have increased dramatically. In addition, helmet use has steadily declined since 2000, making the large influx of new riders less likely to survive a crash. NHTSA estimates that wearing a helmet increases the chance of surviving a crash by 37 percent.

In order to estimate the cost of injuries in motorcycle crashes, NHTSA is examining our databases to derive the incidence of injuries of differing severities. Motorcycle rider injuries are contained in our General Estimates System (GES), which categorizes injuries according to a generic police reported coding system (KABCO) that is not directly compatible with the coding system used for stratifying the cost of crash related injuries. We are developing a motorcycle rider specific translator to express the GES motorcycle injuries in their crash cost equivalent counts. We apologize for not having a final answer, but we are in the process of completing this analysis and will forward the results to you very soon.

QUESTIONS SUBMITTED TO HON. JOHN H. HILL

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

Question. Mr. Hill, last year the DOT Inspector General conducted an audit of FMCSA to assess the progress that has been made in the motor carrier safety program. One of the issues that the IG raised was the need for FMCSA to close loopholes that allowed repeat violators to escape maximum penalties.

Congress gave FMCSA the authority to use these maximum fines in order to target these repeat offenders. FMCSA pointed out some of the problems associated with implementing the IG's recommendations in full, largely related to how violations were documented and the ability of the agency to maintain some discretion in how to work with motor carriers to resolve problems short of issuing penalties. However, in understanding that repeat violators were remaining on the road, often having dangerous consequences, FMCSA agreed to alter its policies.

Question. Mr. Hill, I understand that your agency has worked with the IG to develop a policy and implement a plan to rectify the issues that were identified. Has that policy been finalized and implemented?

Answer. The policy has been drafted and FMCSA is prepared to implement the Office of the Inspector General's (OIG) recommendations. However, the agency is awaiting the findings of a recent GAO audit of the FMCSA's enforcement program. The GAO is expected to recommend further changes to FMCSA's current policy (section 222 of the Motor Carrier Safety Improvement Act of 1999).

The OIG agreed that it was reasonable for the FMCSA to delay implementation of the OIG recommendation to modify its current section 222 policy. It will allow the agency time to determine how OIG's recommendations will fit with the changes GAO may recommend.

What the OIG said

The Office of the Inspector General recommended that FMCSA strengthen its repeat violator policy by developing a procedure to count all acute and critical violations discovered during a compliance review and formally admitted to in writing as a "strike."

Under the current policy, FMCSA only counts violations for which enforcement action is initiated as "strikes."

What the revised policy will do (as it now stands)

The agency will include all critical and acute violations found during a compliance review and formally admitted to in writing by a responsible company official, during the close-out of the compliance review as a “strike” for purposes of MCSIA section 222.

Even if the investigator does not intend to take enforcement action against the motor carrier, he/she will be required to list all acute and critical violations discovered during the compliance review and document at least one count per regulatory Part. If the carrier formally admits to the violation(s), the admission will become a “strike” in the carrier’s history.

If the motor carrier does not admit to the violation(s), the investigator will prepare a Notice of Claim (NOC), which will include one acute or critical violation discovered per Part. The NOC can be zero dollars; however it will be considered a “strike” once the case is closed under appropriate circumstances.

Question. Given that your operations rely heavily on field staff to enforce its laws, what steps have you taken to ensure that these policies are implemented and not just identified on paper?

Answer. As with every enforcement and compliance policy, field staff are directly involved in their development. With regard to the changes proposed to the section 222 policy, a working group—consisting of field and headquarters employees—has jointly developed this revised policy. By participating in this effort, the agency can ensure that the policy is workable and will be effective. In addition, FMCSA plans to provide in-depth training for safety investigators so they will be able to uniformly implement the revised policy.

FMCSA information systems and software programs will be modified to accommodate, and to a large extent automate, the new policy. This will also assist the field staff in their work and ensure the policy is implemented.

Finally, as compliance reviews and enforcement cases are developed, FMCSA Division and Field Administrators will be monitoring the quality of the compliance reviews and enforcement cases to ensure the policy is being followed.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

Question. Administrator Hill, given the similarity between the administration’s current and previous proposals to change the hours of service laws for truck drivers, what are the agency’s plans if your current proposal gets struck down again by the Federal court?

Answer. The FMCSA believes it would be inappropriate to discuss how the agency would respond to an adverse decision from the Court.

The agency will work with the General Counsel of the Department of Transportation and the Department of Justice to identify legal options for ensuring that appropriate HOS requirements are in place in the event the Court overturns all or part of the rule.

Question. Mr. Hill, I understand that your agency is taking initial steps to prevent medically unqualified drivers from operating commercial vehicles. What progress is being made, and when can we expect these programs to be fully operational?

Answer.

Merger of Medical Certification & Commercial Driver’s License (CDL)

On November 16, 2006, FMCSA published a Notice of Proposed Rulemaking (NPRM) which would establish a standard for State driver licensing agencies to record interstate CDL holders’ medical certification to operate a commercial motor vehicle on the driving record of each individual who applies for or renews an interstate CDL. The information can be accessed through the Commercial Driver License Information System (CDLIS), a national pointer system linking individual State CDL databases together.

States would be required to verify the driver has a certificate as part of all CDL issuance and renewal processes, and motor carriers would verify medical certification of drivers as part of hiring and annual driving record reviews. The rulemaking would enable State traffic enforcement agencies to verify the medical certification status of CDL holders as part of each driver contact during roadside inspections. The rulemaking would require States to downgrade interstate CDL holders’ licenses if the driver fails to renew the medical certificate in a timely manner.

Integrating medical certification verification and documentation into the State-administered CDL program would improve highway safety by preventing medically unqualified individuals from obtaining or renewing CDLs. It would also make it possible for enforcement personnel to electronically verify whether a driver is currently

medically certified, and thus place drivers operating CMVs without current medical certification out-of-service. The comment period for the NPRM closed on February 14, 2007. The FMCSA is currently reviewing the comments to the docket to determine the next step in the rulemaking.

National Registry of Medical Examiners

In response to section 4116 of SAFETEA-LU, FMCSA will publish an NPRM to establish and maintain a national registry of medical examiners that are qualified to perform examinations of CMV drivers and issue medical certificates. The Agency would remove from the registry the name of any medical examiner that fails to meet or maintain the qualifications established by FMCSA for being listed on the registry.

The Registry would provide a list of medical examiners who are qualified to perform the physical qualification examination of the more than 6 million truck and motorcoach drivers operating in interstate commerce. The goal is to maintain ongoing competency of medical examiners through training, testing, certification and recertification. This would ensure that medical examiners fully understand the standards that we have in place and that they are staying current with standards as the rules change. The list of certified medical examiners would be easily accessible to CMV drivers and motor carriers so they could locate the ones that are closest to them and send their drivers to those locations.

The FMCSA plans to publish the NPRM requesting public comment on the rulemaking later this year.

QUESTIONS SUBMITTED TO HON. MARK V. ROSENKER

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

Question. Do you believe that all new school buses should be manufactured with 3-point seat belts to protect our children?

Answer. School buses are one of the safest forms of transportation on the road today. According to the National Highway Traffic Safety Administration (NHTSA), school buses transport 23.5 million children to and from school every year covering 4.3 billion miles. Unfortunately, on average, six school age passengers die in school bus crashes every year.

Lap-shoulder belts are an important form of occupant protection for many vehicles including passenger cars and light trucks. Large school buses are unique in both their design and their operating environment. Large school buses are bright yellow and are equipped with flashing lights and a stop arm. Rules govern travel around a school bus loading or unloading passengers. Large school buses also have specific regulations governing roof and body strength. In addition, current school bus designs use a form of passive occupant protection called compartmentalization. On school buses, compartmentalization provides a protective envelope consisting of strong, closely spaced seats that have energy-absorbing seat backs. Compartmentalization functions well for a variety of school aged children ranging from the kindergartener to the high school senior.

Despite the excellent safety record of large school buses, the Safety Board has investigated several accidents resulting in the loss of life of school bus passengers. These accidents typically involved a side impact collision with another large vehicle or a rollover. In these accidents, passengers did not remain completely within the seating compartment and therefore did not benefit from compartmentalization. So whenever school bus passengers remained within the seating compartment (and away from the intrusion area) during the accident sequence, they were less likely to be seriously injured than passengers who were either out of the compartment before the collision or who were propelled from the compartment during the collision.

The Safety Board believes that current compartmentalization is incomplete because school bus passengers are not protected in severe side impacts and in rollovers. Specifically, the Safety Board requested that NHTSA develop occupant protection performance standards specific to large school buses addressing frontal impacts, side impacts, rear impacts and rollovers and to ensure that all new occupant protection systems on large school buses meet this minimum level of protection. The specific type of occupant protection device was not specified by the Board but the Board believes that the protection must be designed as a total system, taking into consideration the vehicle design, seats, sidewalls, etc. Therefore, in general, unless the entire system is taken into consideration, just adding seatbelts to an existing school bus could potentially create as many problems as it appears to solve.

Question. Are you satisfied with the progress the FMCSA is making on their effort to prevent medically unqualified drivers from operating commercial vehicles?

Answer. The Safety Board has long had an interest in the link between commercial driver fitness and transportation safety. Following its investigation of a 1999 motorcoach accident involving a medically unfit driver that resulted in 22 fatalities, the Safety Board issued 8 recommendations to the Federal Motor Carrier Safety Administration (FMCSA) outlining a comprehensive medical oversight program for interstate commercial drivers. As an indication of the importance this issue holds with the Board, these recommendations have been on the Board's Most Wanted list for 3 years.

Although the FMCSA has made acceptable progress on one of these recommendations, the remaining 7 recommendations have been classified by the Board as unacceptable. The FMCSA published a Notice of Proposed Rulemaking (NPRM) in November 2006 to amend the Federal Motor Carrier Safety Regulations to merge information from the medical certificate into the commercial driver license (CDL) process. In our February 13, 2007 response (enclosed), the Board acknowledged that the NPRM attempted to address 2 of our recommendations, but in general failed to establish a comprehensive medical oversight program as recommended by the Safety Board. In the Board's opinion, neither this NPRM nor any other publicly announced FMCSA initiatives, create a process to review or track medical certification examinations or decisions, or to create a mechanism for reporting medical conditions identified between examinations.

The Safety Board is convinced that for any commercial driver medical oversight program to be effective, a systematic approach is necessary that addresses all of the issues conveyed in the eight recommendations.

Question. Since the Federal all-rider motorcycle helmet requirement was repealed in 1995, motorcycle fatalities have skyrocketed. How much do these motorcycle crashes cost our society in terms of medical care, legal costs, and lost productivity?

Answer. The NTSB has not independently assessed the costs associated with motorcycle crashes. Nevertheless, we have been able to gather the following government and private research data.

The February 2007 NHTSA Traffic Safety Facts on Motorcycle Helmet Use Laws (DOT HS 810 726W) states that NHTSA estimated that motorcycle helmet use saved \$1.3 billion in 2002, and that an additional \$853 million would have been saved if all motorcyclists involved in fatal crashes had worn helmets. We contacted NHTSA and learned that their 2002 estimates are their most recent cost estimates for motorcycle crashes.

Dr. Ted Miller, Director of the Public Services Research Institute at the Pacific Institute for Research and Evaluation, presented 2005 data on the cost of motorcycle crashes and the effects of helmets on costs at the NTSB Public Forum on Motorcycle Safety held September 12–13, 2006. According to Dr. Miller, in 2005 there were 110,000 motorcyclists involved in police-reported motorcycle crashes, with motorcycle crash injuries costing \$17.5 billion including costs of medical treatment, lost work, and quality of life. Although non-helmeted motorcyclists accounted for only 40,000 (or 36 percent) of the total motorcyclists involved in crashes, they accounted for \$12.2 billion (70 percent) of the costs. Dr. Miller also estimated the 2005 average cost per crash-involved motorcyclist as \$71,000 for helmeted and \$310,000 for non-helmeted motorcyclists. In Dr. Miller's slides, he also cites a number of other studies that have compared crash costs and hospitalization costs for helmeted and non-helmeted riders. The costs vary by study but consistently show that non-helmeted crashes cost more than helmeted crashes.

The slides from Dr. Miller's presentation at the NTSB Public Forum on Motorcycle Safety and the forum transcript are available at: http://www.nts.gov/events/symp_motorcycle_safety/symp_motorcycle_safety.htm.

CONCLUSION OF HEARING

Senator MURRAY. And this subcommittee now stands in recess until Thursday, April 26, when we will take testimony from the Secretary of Housing and Urban Development.

[Whereupon, at 11:19 a.m., Thursday, April 19, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]